

United States
Circuit Court of Appeals
For the Ninth Circuit.

PACIFIC STATES ELECTRIC COMPANY, a
Corporation,

Appellant,

vs.

WILLIAM D. WRIGHT,

Appellee.

Transcript of Record.

Upon Appeal from the United States District Court for
the Southern District of California,
Southern Division.

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INDEX TO THE PRINTED TRANSCRIPT OF
RECORD.

[Clerk's Note: When deemed likely to be of an important nature, errors or doubtful matters appearing in the original certified record are printed literally in italic; and, likewise, cancelled matter appearing in the original certified record is printed and cancelled herein accordingly. When possible, an omission from the text is indicated by printing in italic the two words between which the omission seems to occur.]

	Page
Affidavit of Raymond Ives Blakeslee.....	164
Answer of the Pacific States Electric Com- pany, Defendant, to the Bill of Complaint of William D. Wright, Plaintiff.....	9
Assignment of Errors.....	186
Bill of Complaint....	3
Bond on Appeal.....	196
Certificate of Clerk U. S. District Court to Transcript of Record.....	205
Citation.....	1

DEPOSITIONS ON BEHALF OF DE-
FENDANT:

KELSEY, ARTHUR W.....	15
Cross-examination.....	24
LAMB, JOSEPH F.....	37
Cross-examination....	51
Redirect Examination.....	61
Recross-examination....	64
LAWLER, JAMES EDWARD.....	26
MANN, NELSON E.....	31
Evidence on Behalf of the Defendant.....	15

EXHIBITS:

Plaintiff's Exhibit No. 1—Letters Patent No. 1,214,486 Issued to W. D. Wright for Electric Cooking Apparatus.....	207
Plaintiff's Exhibit No. 4—Letter Dated December 9, 1915—E. E. Rodabaugh to Frank C. Rapp	215
Plaintiff's Exhibit No. 7—Bill Rendered W. D. Wright by Ingle Manufacturing Co.	219
Plaintiff's Exhibit No. 9—Assignment of Interest in Letters Patent—William D. Wright to Quince C. Crane.....	220
Plaintiff's Exhibit No. 10—Assignment of Interest in Letters Patent—William D. Wright and Quince C. Crane to Crane & Wright Electric Co.	220
Plaintiff's Exhibit No. 11—Assignment of Interest in Letters Patent—Crane & Wright Electric Company to William D. Wright	225
Defendant's Exhibit No. 2—Excerpt from Simplex Catalog of 1904.....	227
Defendant's Exhibit No. 3—Excerpts from Simplex Company's Serial Number Book	230
Defendant's Exhibit No. 11—Letters Pat- ent No. 1,060,263, Issued to Joseph F. Lamb for Electrically-heated Utensil.	242
Defendant's Exhibit No. 12—Letters Pat- ent No. 1,060,264, Issued to Joseph F. Lamb for Heating Element.....	248

Index.

Page

EXHIBITS—Continued:

Defendant's Exhibit No. 13—Letters Patent No. 1,060,265, Issued to Joseph F. Lamb for Electrically-heated Device..	252
Defendant's Exhibit No. 14—Letters Patent No. 1,060,266, Issued to Joseph F. Lamb for Protective Device for Electrically-heated Utensils	257
Defendant's Exhibit No. 15—Letters Patent No. 1,060,267, Issued to Joseph F. Lamb for Electrically-heated Utensil..	261
Defendant's Exhibit No. 22—Letters Patent No. 493,422, Issued to John V. Capek for Electrically-heated Vessel..	264
Defendant's Exhibit No. 23—File-wrapper and Contents in the Matter of Letters Patent of William D. Wright, No. 1,214,486, Granted January 30, 1917 for Improvement in Electric Cooking Apparatus	271
Interlocutory Decree	178
Interrogatories Addressed to William D. Wright, Plaintiff.....	183
Memorandum Opinion	174
Minutes of Court—January 24, 1921—Order Directing That Patent be Filed etc.....	172
Minutes of Court—April 2, 1921—Order Directing Filing of Interlocutory Decree....	177
Names and Addresses of Attorneys.....	2
Order Allowing Appeal and Fixing Amount of Bond and Providing for Supersedeas....	189

Index.	Page
Order Directing Filing of Interlocutory Decree	177
Order Directing That Patent be Filed, etc....	172
Petition for Appeal.....	184
Petition to Reopen Case, etc., and Notice Thereof	162
Praecipe for Transcript of Record.....	200
Receipt for Terms Imposed by Court Under Order of January 24, 1921.....	173
Statement, Verified, of Defendant Pursuant to Order of Court of April 2, 1921.....	193
Stipulation as to Minute Order and Appeal and Supersedeas Bond.....	194
Stipulation as to Transcript of Record on Appeal, and Exhibits	201
Stipulation for Order Staying Costs and Disbursements Judgment, Accounting and Injunction, Until Supersedeas Bond Filed Pursuant to Order Signed April 2, 1921.....	180
Stipulation Regarding Filing and Obtaining Approval of Appeal and Supersedeas Bond....	182
Testimony and Proceedings on Trial.....	67
TESTIMONY ON BEHALF OF PLAINTIFF:	
CRANE, Mrs. WILLIAM A.....	103
WRIGHT, WILLIAM D.....	69
Cross-examination	100
Verified Statement of Defendant Pursuant to Order of Court of April 2, 1921.....	193

In the United States District Court, Southern
District of California, Southern Division.

IN EQUITY—No. D-68.

WILLIAM D. WRIGHT,

Plaintiff-Appellee,

vs.

PACIFIC STATES ELECTRIC CO.,

Defendant-Appellant.

Citation.

United States of America,—ss.

To William D. Wright, GREETING:

You are hereby cited and admonished to be and appear at a United States Circuit Court of Appeals for the Ninth Circuit, to be held at the city of San Francisco, in the State of California, on the 6th day of June, 1921, pursuant to an order allowing an appeal entered in the clerk's office of the District Court of the United States, of the Ninth Judicial Circuit, in and for the Southern District of California, Southern Division, in that certain suit in Equity No. D-68, wherein you are plaintiff and appellee, and Pacific States Electric Co. is defendant and appellant, to show cause, if any there be, why order or decree of said Court made and entered April 2, 1921, against said defendant and appellant, in the said order allowing appeal mentioned should not be corrected and speedy justice should not be done to the parties in that behalf.

WITNESS, the Honorable OSCAR A. TRIPPET, United States District Judge for the South-

ern District of California, Ninth Judicial Circuit,
this 12th day of May, 1921.

TRIPPET,
United States District Judge for the Southern Dis-
trict of California.

Receipt of a copy of the within Citation is hereby
admitted this 12th day of May, 1921.

FREDERICK S. LYON,
LEONARD S. LYON,
Solicitors and Counsel for Plaintiff-Appellee. [1*]

[Endorsed]: In Equity — No. D-68. In the
United States District Court, Southern District of
California, Southern Division. William D. Wright,
Plaintiff-Appellee, vs. Pacific States Elec. Co., De-
fendant-Appellant. Citation. Filed May 13, 1921.
Chas. N. Williams, Clerk. R. S. Zimmerman, Dep-
uty Clerk. [2]

Names and Addresses of Attorneys.

For Appellant:

RAYMOND IVES BLAKESLEE, Esq., 727-
30 California Building, Los Angeles, Cali-
fornia;

JOHN P. BARTLETT, 120 Broadway, New
York.

For Appellee:

FREDERICK S. LYON, LEONARD S.
LYON, Stock Exchange Building, Los
Angeles, California. [4]

*Page-number appearing at foot of page of original certified Transcript
of Record.

United States District Court, Southern District of
California, Southern Division.

IN EQUITY.

WILLIAM D. WRIGHT,

Plaintiff,

vs.

PACIFIC STATES ELECTRIC COMPANY,
Defendant.

Bill of Complaint.

COMES NOW William D. Wright, a citizen, resident and inhabitant of the city of San Diego, county of San Diego, and State of California, and files this his bill of complaint against Pacific States Electric Company, a citizen, resident and inhabitant of the city of Los Angeles, county of Los Angeles, and State of California, and complaining, alleges:

I.

That the ground upon which this Court's jurisdiction depends is that this is a suit in equity arising under the patent laws of the United States.

II.

That the defendant, Pacific States Electric Company, is a corporation organized and existing under and by virtue of the laws of the State of California, and has its principal place of business in the city of Los Angeles, State of California.

III.

That heretofore, to wit, prior to February 5, 1916,

plaintiff was the original, first and sole inventor of a new and useful invention, to wit: Electric Cooking Apparatus, not known or used by others before his invention or discovery thereof, [5] or patented or described in any printed publication in the United States of America, or any foreign country, before his invention or discovery thereof, or more than two years prior to his application for letters patent thereon in the United States of America, or in public use or on sale in the United States of America for more than two years prior to such application for letters patent therefor, and not abandoned; that heretofore, to wit, on February 5, 1916, the plaintiff made application in writing in due form of law to the Commissioner of Patents of the United States of America for letters patent for said invention and complied in all respects with the conditions and requirements of said law; that after due proceedings had and due examination made by the Commissioner of Patents as to the novelty and patentability of said invention, and after due proceedings had, on January 30, 1917, letters patent of the United States of America, No. 1,214,486, signed, sealed and executed in due form of law and bearing date the day and year aforesaid, were granted, issued and delivered by the Commissioner of Patents of the United States of America to plaintiff; that thereby there was granted and secured to plaintiff, his heirs, legal representatives and assigns for the term of seventeen years from and after the 30th day of January, 1917, the exclusive right and liberty of making, using and vending

to others to be used, the said invention throughout the United States of America and the territories thereof all as in and by said original letters patent, or a duly certified copy thereof, to be here in court produced as may be required, will more fully and at large appear.

IV.

That by an instrument in writing dated August 12, 1916, [6] duly executed by plaintiff, plaintiff did sell, assign and transfer to one Quince C. Crane, of San Diego, California, the undivided two-thirds part of the whole right, title and interest in and to said invention and in and to the letters patent therefor aforesaid; that by an instrument in writing, dated September 25th, 1916, duly executed by the plaintiff and by said Quince C. Crane, said Quince C. Crane and plaintiff did sell, assign and transfer to the Crane & Wright Electric Company, a corporation duly organized and existing under the laws of the State of California, of San Diego, California, the entire right, title and interest in and to said invention and letters patent; that said Crane & Wright Electric Company was then a corporation organized under and by virtue of the laws of the State of California, having its principal place of business at San Diego, California; that heretofore, to wit, on March 13th, 1918, said Crane & Wright Electric Company, by its sole surviving directors as its trustees, namely William D. Wright and Ovid E. Mark, did sell, assign, transfer and set over to plaintiff all its right, title and interest, the same being the exclusive right, title and interest in

and to the said invention and letters patent, together with any and all claims of every kind and character arising out of past infringements of said letters patent; that at said time said William D. Wright and Ovid E. Mark were the surviving directors of said Crane & Wright Electric Company and the directors of its property for the purpose of winding up its affairs and at said time said Crane & Wright Electric Company had forfeited its right to do business as a corporation and existed solely for the purpose of winding up its affairs; that by virtue of said assignments plaintiff became and now is the owner of the sole and exclusive right, title and interest in and to said invention and letters patent. [7]

V.

That the said invention is of great value and has gone into extensive use and that all the devices manufactured by plaintiff, or plaintiff's predecessors in interest, have been conspicuously marked by imprinting or marking thereon the word "patented," together with the day and date of the issue of said letters patent, to wit, January 30, 1917.

VI.

That since the grant, issuance and delivery of said letters patent and on divers and sundry dates thereafter, defendant has caused to be made and sold and used, and has made, sold and used, and is now and intends to continue to make, sell and use electric cooking apparatus embodying and containing the said invention patented in and by said letters patent. That defendant has been notified

in writing of the grant, issuance and delivery to plaintiff of said letters patent and infringement by it, aforesaid, but notwithstanding the same has deliberately and wilfully appropriated said invention to his own use and infringed upon said letters patent and has refused and does refuse to desist from said infringement.

Defendant does not know exactly to what extent or how many electric cooking apparatus embodying said invention defendant has manufactured, sold, or used, or caused to be manufactured, sold or used, or the extent of such use, or of the profits or advantages accruing to defendant therefrom or realized therefrom by defendant, and prays full discovery thereof.

VII.

Plaintiff alleges that by reason of the infringements aforesaid plaintiff has suffered large damages and the loss of large number of sales of electric cooking apparatus embodying said invention; that said damages amount to the full sum of [8] Twenty-five Thousand (\$25,000.00) Dollars.

WHEREFORE plaintiff prays:

1. That a writ of injunction issue out of or under the seal of this court enjoining and restraining the defendant, its officers, agents, attorneys, servants, employees and associates, and each and every of them, from making, using or selling in any manner, directly or indirectly, any apparatus containing or embodying the said invention patented in or by said letters patent or any machine or device capable of being used in infringement thereof or capable

of being combined with any other device to be used in infringement thereof and from directly, or indirectly, infringing upon such letters patent in any manner whatsoever, or from aiding, abetting or contributing to any infringement thereof whatsoever.

2. That defendant be ordered, adjudged and decreed to account to and pay over to plaintiff all profits and advantages realized by defendant from said infringement and all damages sustained by plaintiff, or plaintiff's assignor's by reason of such infringements aforesaid, together with the costs of this suit and for such other, further or different relief as to this Court may seem proper and be in accord with equity and good conscience.

WILLIAM D. WRIGHT.

FREDERICK S. LYON,

Solicitor and of Counsel for Plaintiff. [9]

[Endorsed]: No. D-68-Eq. United States District Court, Southern District of California, Southern Division. William D. Wright, Plaintiff, vs. Pacific States Electric Company, Defendant. In Equity. Bill of Complaint. Filed Mar. 22, 1918. Chas. N. Williams, Clerk. By R. S. Zimmerman, Deputy Clerk. Frederick S. Lyon, 504-7 Merchants Trust Building, Los Angeles, Cal., Solicitor for Plaintiff. [10]

United States District Court, Southern District of
California, Southern Division.

IN EQUITY—No. —.

WILLIAM D. WRIGHT,

Plaintiff,

vs.

PACIFIC STATES ELECTRIC CO.,

Defendant.

Answer of the Pacific States Electric Company, Defendant, to the Bill of Complaint of William D. Wright, Plaintiff.

This defendant now and at all times hereafter reserving unto itself all and all manner of benefit or advantage by exception or otherwise that can or may be had or taken to the manifold errors, uncertainties, insufficiencies and imperfections in said bill of complaint contained, for answer unto said bill, or unto so much and such parts thereof as this defendant is advised it is necessary for it to make answer unto answering says:

1. This defendant has no knowledge as to the citizenship and residence of the plaintiff as stated in the bill of complaint and leaves the plaintiff to make such proof thereof as he may be advised is necessary.

2. Defendant admits that it is a corporation organized and existing under and by virtue of the laws of the State of California, and that it has a place of business at the city of Los Angeles, county of Los Angeles, and State of California. [11]

3. Defendant admits that pretended letters patent of the United States, No. 1,214,486, for certain alleged new, original and useful improvements in Electric Cooking Apparatus were granted to one William D. Wright on the 30th day of January 1917, but whether such letters patent were granted and issued in due form as by law required defendant has no knowledge save as stated in said bill of complaint and accordingly denies the fact and leaves the same to be proven as plaintiff may be advised.

Upon information and belief defendant denies that said William D. Wright was the true, original, first and sole inventor of the subject matter set forth in the said letters patent No. 1,214,486; denies that the alleged improvements disclosed therein were new or useful to any material extent; and further denies that the same were not known or used by others in this country, or had not been patented or described in any printed publication in this or in any foreign country before the alleged invention thereof by said Wright. Defendant further denies that the alleged invention described in said patent has not been in public use or on sale in this country for more than two years prior to the said Wright's application.

Upon information and belief defendant charges the contrary to be true in respect to the several particulars named, and therefore denies the facts alleged.

4. Defendant has no knowledge of the facts upon which the allegations of paragraph 4 of the

bill of complaint are based and leaves the plaintiff to his proof thereof.

5. Defendant denies that things covered by said letters patent are of any great value or profit, or of any material benefit or advantage; and denies that said alleged invention [12] has gone into extensive use.

As to the marking by plaintiff of any goods made under the said patent as alleged defendant has no knowledge and leaves plaintiff to his proof thereof.

6. This defendant further answering upon information and belief avers that long prior to the supposed invention of the alleged improvements set forth in the said patent, the same thing or things, or material parts thereof, had been patented and described in various prior letters patent of the United States and foreign countries, and in various printed publications both here and abroad, and among others the following, to wit:

482,074	Sept. 6, 1892	Capek
493,422	Mar. 14, 1893	Capek
797,604	Aug. 22, 1905	Perky
910,479	Jan. 19, 1901	Andrews
956,174	Apr. 26, 1910	Richardson
973,593	Oct. 25th, 1910	Van Aller
987,293	Mar. 21st, 1911	Gale
992,417	May 16th, 1911	Gale
1,060,263	Apr. 29th, 1913	Lamb
1,060,264	Apr. 29th, 1913	Lamb
1,060,265	Apr. 29th, 1913	Lamb
1,060,266	Apr. 29th, 1913	Lamb
1,060,267	Apr. 29th, 1913	Lamb
1,090,924	Mar. 24th, 1914	Lawrence

and others now unknown to this defendant, but particulars concerning which defendant craves leave to add hereafter.

7. On information and belief defendant avers that said letters patent No. 1,214,486 were and are null and void because [13] the alleged improvements forming the subject matter thereof were in public use and on sale in this country prior to the said Wright's alleged invention and application for said letters patent, and were known to the following named persons and parties at the following named places, to wit:

John V. Capek, of New York, New York, at New York, New York.

Henry D. Perky, of Worcester, Massachusetts, at Worcester, Massachusetts.

William S. Andrews, of Schenectady, New York, at Schenectady, New York.

Earl H. Richardson, of Ontario, California, at Ontario, California.

Tycho Van Aller, of Schenectady, New York, at Schenectady, New York.

H. B. Gale, of Natick, Massachusetts, at Natick, Massachusetts.

Joseph F. Lamb, of New Britain, Connecticut, at New Britain, Connecticut.

Simplex Electric Heating Company, of Boston, Massachusetts, at Boston, Massachusetts.

Landers, Frary & Clark, of New Britain, Connecticut, at New Britain, Connecticut.

Nelson E. Mann, of New Britain, Connecticut, at Boston, Massachusetts.

And others whose names and addresses are now unknown to this defendant but particulars concerning which this defendant craves leave to add hereafter. [14]

9. Defendant denies that it has infringed upon any valid patent rights of the plaintiff; that it has inflicted any great or irreparable damage or injury to the plaintiff, or that it intends to do so unlawfully. Defendant denies the equities of the bill of complaint; denies that the plaintiff has any right to an accounting of profits, damages, gains, advantages, or costs to be recovered from this defendant; denies that the plaintiff has any right to any damages of any nature whatsoever; denies said plaintiff's right to an injunction either temporary or perpetual; and also denies that said plaintiff is entitled to any other or further equitable relief whatsoever.

All of which matters and things this defendant is ready to aver, maintain and prove as this Honorable Court may direct. Wherefore this defendant humbly prays to be hence dismissed, with reasonable costs and charges in this behalf most wrongfully sustained.

PACIFIC STATES ELECTRIC CO.

By H. C. CHAPMAN.

LUCIUS P. GREEN,

Solicitor for Defendant.

H. E. HART,

Counsel.

Dated at Los Angeles, June 7th, 1918. [15]

State of California,
County of Los Angeles,—ss.

H. C. Chapman, being by me first duly sworn, deposes and says: That he is the Assistant Treasurer of the Pacific States Electric Company, defendant above named, and as such he is authorized to and makes this verification for and on behalf of said defendant, in the above-entitled action; that he has heard read the foregoing answer and knows the contents thereof; and that the same is true of his own knowledge, except as to the matters which are therein stated upon his information or belief, and as to those matters that he believes it to be true.

H. C. CHAPMAN.

Subscribed and sworn to before me this 7th day of June, 1918.

[Seal]

LUCIUS P. GREEN,

Notary Public in and for the County of Los Angeles, State of California. [16]

[Endorsed]: D—68. United States District Court, Southern District of Cal. In Equity—No. —. William D. Wright, Plaintiff, vs. Pacific States Electric Company, Defendant. Answer. Received copy of the within answer this 15th day of June, 1918. Frederick S. Lyon, Solicitor for Plaintiff. Filed Jul. 3, 1918. Chas. N. Williams, Clerk. By R. S. Zimmerman, Deputy. Clerk. Law Offices of Harrie E. Hart, Hartford, Conn., Connecticut Mutual Bldg. [17]

United States District Court, Southern District of
California, Southern Division.

IN EQUITY.

WILLIAM D. WRIGHT,

Plaintiff,

vs.

PACIFIC STATES ELECTRIC COMPANY,
Defendant.

Evidence on Behalf of the Defendant.

Boston, Massachusetts, Jan. 14, 1920.

Evidence taken on behalf of defendant, pursuant to notice attached hereto, before J. M. Fuller, a notary public in and for the county of Suffolk, State of Massachusetts.

Appearances: LEONARD S. LYON, in Behalf of
Plaintiff;

H. E. HART, in Behalf of Defendant.

Deposition of Arthur W. Kelsey, for Defendant.

ARTHUR W. KELSEY, called as a witness in behalf of the defendant, and having been duly sworn, testifies in answer to interrogatories as follows: [18]

Q.1. What is your name, age, residence and occupation?

A. Arthur W. Kelsey; 39 years; 62 River St., Cambridge, Mass. Repair foreman for Simplex Electric Heating Co.

(Deposition of Arthur W. Kelsey.)

Q. 2. How long have you been associated with the Simplex Electric Heating Co.?

A. Seventeen years.

Q. 3. What class of goods does the Simplex Electric Heating Co. manufacture?

A. Electric-heating goods.

Q. 4. For what character of use are these goods intended?

A. Households and restaurants; also laundries.

Q. 5. How are the goods used, or for what purpose? A. Cooking and ironing.

Q. 6. Please give the names of several of the electrically heated cooking articles or utensils which the Simplex Company makes.

A. Broilers, griddles, waffle-irons, and ranges and bake-ovens.

Q. 7. For how long, to your personal knowledge, has the Simplex Company been making electrically-heated utensils such as you have named?

A. Over twenty years.

Q. 8. This covers most, if not all, the period of your employment with the Simplex Company?

A. Yes, sir.

Q. 9. I understand you to testify that among others of these cooking utensils the Simplex Co. has made electrically-heated waffle-irons. Is that correct? A. Yes, sir. [19]

Q. 10. For how long a period to your definite, personal knowledge has the Simplex Company been making electrically-heated waffle-irons?

A. For the last thirteen years.

(Deposition of Arthur W. Kelsey.)

Q. 11. Please look at the device I show you, and state whether or not you recognize it, and if so, as what.

Mr. LYON.—The form of the question is objected to as leading to questions of prior use. The witness should be interrogated regarding the prior structure before the supposed structure is exhibited to the witness.

Question withdrawn.

Q. 12. In the course of your work with the Simplex Co., did you come to be familiar with the construction of the electric waffle-irons made by it?

A. Yes, sir.

Q. 13. Please explain briefly what the character of your work with the Simplex Co. has been as a result of which you became familiar with the construction of the Simplex electric waffle-iron.

A. By taking all waffle-irons apart when they came back for repairs, to find out what was the trouble.

Q. 14. You have, then *be* accustomed to assemble and disassemble the Simplex electric waffle-irons, have you? A. Yes, sir.

Q. 15. And for how long a time have you been doing such work? A. Seventeen years.

Q. 16. Will you now describe, briefly, what the construction of the Simplex Electric waffle-iron is.

A. The base of the waffle-iron is a cast-iron base. It has phosphorous bronze contacts, and has a black japan guard around the contacts on the face. There are two [20] heating elements joined to-

(Deposition of Arthur W. Kelsey.)

gether by rivets. Each heating element has two brass contacts. The inside of the element is enameled with a winding embedded in the enamel, with terminal wires which connect to the brass contacts. The outer section of the heating element has a wooden handle on it, which is called the top heater when it is turned over.

Q. 17. You have spoken of heating elements hinged together with rivets, and then of the inside of the element as equipped with enamel with a winding embedded in the enamel. What is that winding for? A. To heat the iron.

Q. 18. And it is that winding which is connected to the contacts? A. Yes, sir.

Q. 19. And where, with respect to the winding, is the waffle surface of the device?

A. On the other side of the casting.

Q. 20. Then, as I understand you, there are two castings hinged together by rivets, and on the one face of each casting is a waffle surface and on the opposite face this embedded wire by which the iron is heated. Is that correct? A. Yes, sir.

Q. 21. Would you be able to recognize the Simplex Electric waffle-iron if you saw one?

A. Yes, sir.

Q. 22. Please look at the device I show you and ask you if you recognize it, and if so as what.

A. A 1400 waffle-iron.

Q. 23. Made by whom? [21]

A. The Simplex Elec. Heating Co.

Q. 24. Is it possible by removing any part of this

(Deposition of Arthur W. Kelsey.)

iron to disclose the enamel in which the winding by which the iron is heated is embedded?

A. Yes, sir. By removing two covers that are on the bottom of the elements.

Q. 25. And how are these covers held in place?

A. Each by two screws.

Q. 26. Will you please remove one of these covers and say whether or not you find underneath it the enamel and any indication that the heating wire is embedded in it. A. Yes, sir.

Q. 27. Do you see the wires?

A. I see two lead wires, which we call terminals.

Q. 28. And to what are they connected?

A. To two screws which the brass contacts are attached to.

Q. 29. I find on the enamel which you have uncovered by removing the cover the numeral "110." What does this indicate? A. The voltage.

Q. 30. There are other numerals on the enamel. What are they, *of* you can make out, and what do they indicate, if you know?

A. 4/3/18 represents the month, day and year that the article was manufactured.

Q. 31. Please say whether or not this Simplex Elec. waffle-iron which you have identified is exactly the same in appearance and construction with what you have been familiar with during your work with the Simplex Company?

Mr. LYON.—Objected to as leading. [22]

A. Yes, sir.

Q. 32. And when you have testified that you have

(Deposition of Arthur W. Kelsey.)

been familiar with the construction of the electric waffle-irons made by the Simplex Elec. Heating Co. *fo* at least thirteen years, were you referring to electric waffle-irons like the one you have here identified?

A. Yes, sir; with a slight change in the waffle-iron.

Q. 33. What was that change?

A. These identifications here were not quite so high.

Q. 34. Is there any other difference?

A. There is a difference on the guard for the base contacts.

Q. 35. What was this difference?

A. It is made a little higher so as to give more protection for the contacts.

Q. 36. I show you a catalog and ask you if you know what it is.

A. Yes, sir. It is a catalog of the Simplex Elec. Heating goods which they manufacture.

Q. 37. Does it carry a date.

Mr. LYON.—Objected to as incompetent.

A. Yes, sir; April 1904.

Q. 38. Please look at the waffle-iron illustrated on page 28 of this catalog, and say whether or not it is a representation of the waffle-irons as made by the Simplex Company during the time you have been familiar with their manufacture of electric waffle-irons. A. Yes, sir.

Q. 39. What does the number under the cuts of those electric waffle-irons mean?

(Deposition of Arthur W. Kelsey.)

A. The type numbers. The 1400 is the black japan finish. 1401 was the same thing nickel plated.
[23]

Q. 40. Do the electric waffle-irons made by the Simplex Company have any other type numbers?

A. Yes, sir. A 1402, which would be black japan finish, and a 1403, which would be nickel finish. These are three-part waffle-irons.

Q. 41. How long have the waffle-irons manufactured by the Simplex Co. been identified by these type numbers? A. Ever since they were made.

By Mr. HART.—The waffle-iron identified by the witness in answer to Q. 22 is offered in evidence as Defendant's Exhibit No. 1, Simplex Electric Waffle-Iron. The catalog shown to witness and identified by him in answer to Q. 36 is offered in evidence as Defendant's Exhibit No. 2, Simplex Catalog of 1904.

Mr. LYON.—Objected to as incompetent, irrelevant, immaterial, not properly proven.

Mr. HART.—It is stipulated and agreed by and between counsel for the respective parties that photostatic print of the first page and of page 28 of the catalog, Exhibit 2, may be used in lieu of the original. Subject of course to any objections on the part of plaintiff.

Q. 42. Have you with you any records showing the manufacture or shipment of electric waffle-irons by the Simplex Co. and if so will you produce them.

A. Witness presents a book bearing on its cover the inscription:

(Deposition of Arthur W. Kelsey.)

Serial Record

Simplex Elec. Heat Co.

and on the next line the numerals, written in ink, on the canvas cover of the book:

223481 to 326490 [24]

Q. 43. What is this book you have produced?

A. A serial record book of the Simplex Elec. Heating Co.

Q. 44. How and in what manner does this book contain or show records relating to electric waffle-irons?

Mr. LYON.—Objected to as incompetent.

A. It shows a serial number and a type number and the voltage and the date of shipment and the order number of every waffle-iron that was shipped during those consecutive numbers that are on the outside of the cover.

Q. 45. And does it show shipment of other goods beside waffle-irons? A. Yes, sir.

Q. 46. Please turn to a few places in this book where reference to electric waffle-irons is to be found.

A. On the page which I have numbered "A," Ser. No. 224,802, entered as 1400 waffle-iron, 110 volts, and the date of shipment is 11-5-07. The shop order No. is 60,175. 224,803 is the same, and 224,804, 5 and 6 has a record of 1400 waffle-iron; 115 volts. The first one is on shop order 50747, and the last two on Shop Order 59778. Serial No. 224,807 is a 1401 waffle-iron, 115 volts, shipped 11-6-07, on shop order 50747.

Q. 47. Now, what does this Serial Number mean?

(Deposition of Arthur W. Kelsey.)

Please explain about these Serial Numbers.

A. Every article that the Simplex Electric Heating manufacture has a number on them beginning with No. 1, so as to be able to tell whom they were shipped to and when they were shipped out.

Q. 48. And are these numbers given to the various articles in rotation as they are shipped out?

A. No, sir; not as they are shipped out, but as they are assembled.

Q. 49. So that a higher Serial No. shows that that particular article was assembled later than a lower Ser. No. Is [25] that correct? A. Yes, sir.

Q. 50. Please point to other pages in this record showing electric waffle-irons and give the dates of the shipments.

A. On page I have lettered "B" sales are shown on the following dates: 5-19-08, 12-2-08, 7-18-08, 12-2-08, 6-4-08, and 6-20-08, 7-20-08.

Q. 51. Please merely letter other pages on which the Ser. Nos. and shipping dates of electric waffle-irons are indicated.

A. I have numbered such pages "C," "D," "E," "F," "G."

Q. 52. Now, the electric waffle-irons indicated on the various pages of this book which you have marked were they like the waffle-iron Exh. 1 which you have identified? A. Yes, sir.

Q. 53. And they were all electric waffle-irons?

A. Yes, sir.

Mr. HART.—The book produced by the witness is offered in evidence as Def. Exh. 3, Simplex Com-

(Deposition of Arthur W. Kelsey.)

pany's Serial No. Book. And it is stipulated and agreed by and between counsel that in lieu of producing the original book which is extremely bulky and necessary to the business of the Simplex Elec. Htg. Co. photostatic prints of the pages which have been marked by the witness may be used in lieu of the book but with full force and effect as an original.

Mr. LYON.—The receipt in evidence is objected to as incompetent, the same not having been properly proven, and there is no objection to substituting photostatic copies. [26]

Q. 54. Who makes the entries in these Ser. No. books such as you have produced?

Mr. LYON.—Objected to as immaterial, irrelevant.

A. A clerk hired for that purpose.

Q. 55. And do these sheets or pages which you have referred to contain original entries?

Mr. LYON.—Objected to as incompetent.

A. Yes, sir.

Direct examination closed.

XQ. 56. Are these Serial Nos. you have referred to placed on the respective articles to which they pertain?

A. They are stamped on the name plates, and also on the castings.

XQ. 57. Will you point out on Def. Exh. 1, such serial number?

A. In the last 5 years we have not used serials.

XQ. 58. Then no Ser. No. appears on Def. Exh. 1; is that correct? A. Yes, sir. None appears.

(Deposition of Arthur W. Kelsey.)

XQ. 59. Your duties with the Simplex Electric Co. are confined to mechanical work, are they not?

A. Yes, sir.

XQ. 60. You are not in charge of shipping or auditing depts. of the company, are you? By auditing, I mean, clerical department of the company.

A. No, sir.

XQ. 61. Your duties are not connected with such departments, are they?

A. In a way, I have orders from the office that have to pass through the shipping room before they are out.

XQ. 62. But personally you do no work in any department except your own, do you?

A. No, sir. [27]

XQ. 63. Your work is confined to repairing defective articles, isn't it? A. Yes, sir.

XQ. 64. Explain in detail what repairs you have made on electric waffle-irons of the type referred to by you.

A. I had to put on new heaters; either a top or a bottom heater; and sometimes the base contacts.

XQ. 65. Anything else?

A. Sometimes to repaint the base and put on a new cord and refinish it in salable condition.

XQ. 66. The necessity for making repairs of the kind referred to by you is frequent, is it?

A. Several a year.

XQ. 67. And you make repairs on other articles than waffle-irons, is that correct?

A. Yes, sir.

(Deposition of Arthur W. Kelsey.)

XQ. 68. Then as I understand you, the type of waffle-iron referred to by you is frequently returned to the factory for repairs; is that correct?

A. Yes, sir.

Mr. HART.—From your experience at the Simplex Elec. Heating Co., would you say that the Simplex electric waffle-iron was a successful and practical device?

Mr. LYON.—Objected to as grossly leading.

— Yes, sir.

Mr. HART.—Are the Simplex Elec. waffle-irons *been* sold continually and have they been so sold since you have known anything about them?

Mr. LYON.—Same objection and a further objection that the question is not proper redirect examination. [28]

Mr. HART.—Question withdrawn.

Mr. HART.—Please say whether or not from a practical standpoint the electric waffle-irons made by the Simplex Co. were successful.

Mr. LYON.—Objected to as leading and improper redirect examination. A. Yes.

Deposition closed. [29]

Deposition of James Edward Lawler, for Defendant.

Q. 1. What is your name, age, residence and occupation?

A. James Edward Lawler; 31 years; 223 Norfolk Street, Cambridge, Mass; Tracer, with the Simplex Elec. Heating Co.

Q. 2. How long have you been with that company?

(Deposition of James Edward Lawler.)

A. Fourteen years, with the exception of one year that I was out in the service.

Q. 3. What have your duties been?

A. Formerly in the assembling-room for four years.

Q. 4. You mean the past four years?

A. Why, four years foreman and one year tracer.

Q. 5. Before that, what were you doing?

A. Assembling.

Q. 6. What kind of goods does the Simplex Co. manufacture?

A. Electric griddles, electric boilers, electric flat-irons, electric pads, and electric waffle-irons.

Q. 7. And have they been engaged in the manufacture of such goods since you have been with the company? A. Yes, sir.

Q. 8. Are you familiar with the construction of the electric waffle-irons which they have made?

A. Yes, sir.

Q. 9. And *for* long have you been familiar with the construction of these electric waffle-irons?

A. For fourteen years.

Q. 10. That is, throughout the period of your employment? A. Yes, sir.

Q. 11. Will you describe briefly the construction of these electric waffle-irons made by the Simplex Co. during your employment with them? [30]

A. Square cast-iron base; phosphorous bronze contacts; two cast-iron heaters; wood handle attached to one heater for the purpose of turning over top heater; brass contacts on sides of both heaters

(Deposition of James Edward Lawler.)

connected to terminals, which in turn are attached to winding embedded in enamel. The bronze contacts on base used to make the difference in heats which throw windings in heaters for series or multiple, thereby lowering the amount of current used.

Q. 12. Where is this winding applied to the heaters?

A. On the ground coat of enamel, which has been baked to the heater casting.

Q. 13. Do you recognize the device I show you, and if so as what?

A. As a 1400 electric waffle-iron.

Q. 14. How do the electric waffle-irons which you have been familiar with throughout your connection with the Simplex Co. as manufactured by them compared with this iron I have shown you.

The witness is shown Def. Exh. 1, Simplex Waffle-iron.)

A. The same.

Q. 15. And is this true for the entire period of your association with the Simplex Co.?

A. Yes, sir.

Q. 16. Are you familiar with the catalog I show you, and if so what is it?

A. Catalog of the Simplex Elec. Htg. Co.

Q. 17. Does it carry date and if so what?

(Showing Def. Exh. 2, Simplex Catalog.)

Mr. LYON.—Objected to as incompetent.

A. Catalog No. 12 of April, 1904. [31]

Q. 18. Please look at the illustration on page 28 and say what it is. A. 1400 waffle-iron.

(Deposition of James Edward Lawler.)

Q. 19. Have you been familiar with waffle-irons as here illustrated, and if so, for how long?

A. Have been familiar for fourteen years.

Q. 20. And as made by whom?

A. By the Simplex Electric Heating Company.

Q. 21. Are you familiar with the Serial Record book, Def. Exh. 3, which I show you, and if so, explain what it is.

A. A serial record book of the Simplex Electric Heating Company.

Q. 22. How is this book used?

A. Used by the shipping department or shipping clerk. Used for showing record and date of shipment of each article; also giving type and voltage.

Q. 23. Please turn to one of the pages in this book and explain more in detail what you refer to as records of shipments of waffle-irons by the Simplex Company.

A. On page "A" shows a record of No. 224,802, calling for one 1400 waffle-iron, 110 volts, shipped 11-5-1907, and it was shipped on Shop Order 60175.

Q. 24. And what does the Serial Number represent?

A. Each and every article with a heating element is given a number. The number that we call the Serial No. Those numbers started from No. 1 and have gone consecutively.

Q. 25. Will you look at the pages lettered B, C, D, E, F and G and see if you find similar records as to the sale of waffle-irons? A. Yes, sir; I do.

(Deposition of James Edward Lawler.)

Q. 27. And is this Serial Book a book of original entry.

A. Objected to as incompetent, witness not having qualified to answer.

Q. 28. Yes, sir.

Q. 29. In answering the last question did you answer from your own personal knowledge as to the way this book is used and as to who makes the entries in it?

Mr. LYON.—Objected to as leading.

A. Yes, sir.

Direct examination closed.

No cross-examination.

It is stipulated and agreed by and between counsel that the signatures to the two foregoing depositions are waived. [33]

[Endorsed]: No. D-68. U. S. District Court, Southern District of California, Southern Division. William D. Wright v. Pacific States Elect. Co. Deposition of A. W. Kelsey. Filed Jan. 24, 1920. Chas. N. Williams, Clerk. By R. S. Zimmerman, Deputy Clerk. [34]

United States District Court, Southern District of
California, Southern Division.

IN EQUITY.

WILLIAM D. WRIGHT.

Plaintiff,

vs.

PACIFIC STATES ELECTRIC CO.,

Defendant.

Hartford, Conn., January 15, 1920.

Appearances: LEONARD S. LYON, Esq., in Be-
half of Plaintiff;

HARRIE E. HART, Esq., in Be-
half of Defendant.

Deposition of Nelson E. Mann, for Defendant.

NELSON E. MANN, a witness called in behalf
of the defendant, being duly sworn, deposes and
says as follows in answer to interrogatories by Mr.
Hart:

Q. 1. What is your name, age, residence and oc-
cupation?

A. Nelson E. Mann; 46 years old; 100 Robbins
Avenue, Maple Hill, Newington, Connecticut.
Electrical Engineer. I am employed by Landers,
Frary & Clark, of New Britain.

Q. 2. How long have you been connected with the
business of Landers, Frary & Clark?

A. Since November 13, 1916.

Q. 3. And in what business were you engaged

(Deposition of Nelson E. Mann.)

before you went with Landers, Frary & Clark?

A. Manufacturing electric heating devices.

Q. 4. On your own account? A. Yes, sir.

Q. 5. Where?

A. Columbia, Pennsylvania, was the last place.

Q. 6. And what became of your business after you went with Landers, Frary & Clark? [35]

A. I sold out to Landers, Frary & Clark.

Q. 7. So that you had been proprietor of your own business in the manufacture of electrical heating appliances? A. Yes, sir.

Q. 8. Does that phrase "heating appliances" include cooking utensils? A. Yes, sir.

Q. 9. Prior to engaging in business for yourself by whom were you employed?

A. The Simplex Electric Heating Co., Cambridge, Massachusetts.

Q. 10. And about what period of time, by year, was covered by your employment with the Simplex Co.?

A. I left them in 1910, that I am positive. When I began was somewhere around 1904 or 1905.

Q. 11. What was the business of the Simplex Company?

A. Manufacturing electric heating devices.

Q. 12. And in this case does that phrase "heating devices" include cooking utensils of various types?

A. Everything in the electric heating line.

Q. 13. Name some of the electrical heating cook-

(Deposition of Nelson E. Mann.)

ing utensils made by the Simplex Company while you were engaged with them.

A. They made electric chafing-dishes, percolators, electric ranges, frying-pans, dies stoves—hot plate, sometimes it is called—waffle-irons, toasters—that is all I can recollect on the spur of the moment; there is another one—broilers.

Q. 14. You have mentioned electric waffle-irons, Were such goods manufactured by the Simplex Company all during the period of your employment with them?

A. No, they were not; they were manufactured during the [36] last four or five years; I am not sure about that,—some years before I left them; they were developed while I was there.

Q. 15. Were you familiar with the construction of them? A. Yes, sir.

Q. 16. Just state briefly what the construction was.

A. It consisted of a cast-iron base, with a two-part hinged heater setting on a base, supported by the base, so that one part could be turned over on the other, with a contact on one end to change the circuit to give the different degrees of heat. The waffle-iron was made of cast-iron, black, japanned.

Q. 17. Where was the heating element?

A. The heating element was on the bottom—you can't call it bottom; on the side, on the other side of the casting, embedded in enamel, from the cooking surface.

Q. 18. Please look at the device I now show you.

(Deposition of Nelson E. Mann.)

I ask if you recognize that. (Showing witness Defendant's Exhibit No. 1.)

A. Yes, sir; that is a waffle-iron, practically the same as made when I was there.

Q. 19. By whom?

A. The Simplex Electric Heating Co.

Q. 20. And is this Exhibit No. 1, the electric waffle-iron, made as just described by you by the Simplex Company?

A. Yes, exactly, with minor changes.

Q. 21. What are the minor changes?

A. The guard protecting the electric contacts.

Q. 22. What about this guard?

A. That has been added since I was with them.

Q. 23. But in other respects is the iron, Exhibit No. 1, substantially identical with those irons which were [37] made by the Simplex Company when you were connected with them? A. It is.

Q. 24. Do you know a Mr. Lawler? A. I do.

Q. 25. Where did you know him?

A. At the Simplex Electric Heating Co.

Q. 26. Do you know a Mr. Kelsey?

A. Yes, sir; at the Simplex Electric Heating Co.

Q. 26. Do you remember any records which were kept as to the various goods manufactured by the Simplex Company?

A. Yes, sir; there was a system of records.

Q. 27. Please describe the system briefly.

A. At the time I was with the Simplex Company they had paper covered books in which were recorded all the heating appliances, consisting of a

(Deposition of Nelson E. Mann.)

serial number which was stamped on all heaters, the voltage of the appliance, and the date of the assembling; the order numbers, the factory order numbers on a larger portion of it; there were some they didn't put the order number on. That record was kept in the Assembling Department and as each article was assembled and the name plate assembled, it was recorded in these records.

Q. 28. What was recorded?

A. The serial number and data was recorded in these record books.

Q. 29. Was there any indication in connection with these serial numbers as to the character of the goods, to which each serial number related?

A. There was a type number.

Q. 30. What was the type number?

A. Each particular style of goods had a number to [38] distinguish the class of goods. The serial numbers were used consecutively in keeping a record of the goods manufactured.

Q. 31. Did you have anything to do with the making of the records in those books?

A. Yes, I entered a great many personally. The employees under my supervision did most of the entering.

Q. 32. What was your position with the Simplex Company?

A. I was foreman of the electric heating assembling department.

Q. 33. In your capacity as foreman, were you thoroughly familiar with the construction of the

(Deposition of Nelson E. Mann.)

various electrical heated utensils which they made?

A. I was.

Q. 34. Do you happen to know any individuals or concerns to whom these electric waffle-irons, as made by the Simplex Company, were sold, when you were with that Company?

A. Well, indirectly. I don't know as it would be any evidence in court. I had nothing to do with the selling end; it is only indirectly,—hearsay.

Q. 35. Did you ever see any of the electric waffle-irons, as made by the Simplex Company, in use?

A. Yes.

Q. 36. Where? A. At Harvard College.

Q. 37. Are you able to say whether Harvard College had one or more of them?

A. Yes, they had half a dozen or more.

Q. 38. Are you able to say whether or not electric waffle-irons, as made by the Simplex Company, were successful, usable structures, and if so please so state. [39]

A. Those I saw in use were successful.

Q. 39. And did they make and sell them in substantial quantities while you were connected with them?

A. They had continuous orders from various parts of the country.

Direct examination closed.

No cross-examination.

Deposition closed.

Deposition of Joseph F. Lamb, for Defendant.

JOSEPH F. LAMB, a witness called in behalf of the defendant, being duly sworn, deposes and says, as follows, in answer to interrogatories by Mr. Hart:

Q. 1. Give your name, age, residence and occupation.

A. Joseph F. Lamb; 45; 29 Park Place, New Britain. I am Vice-president and General Superintendent of Landers, Frary & Clark.

Q. 2. How long have you been connected with that concern?

A. Seventeen years the 23d of this month.

Q. 3. Just name some of the different lines of manufacture that Landers, Frary & Clark are engaged in.

A. They make meat-choppers, food-choppers, electric heating appliances such as percolators, chafing-dishes, coffee-pots, stoves, waffle-irons, curling-irons, grilles, shaving mugs, toasters, cutlery, weighing scales, breadmakers, cakemakers, vacuum bottles, pocket-knives—that is, cutlery.

Q. 4. How long has Landers, Frary & Clark been making electrical heating appliances?

A. Why, since 1912. The first development of electrical appliances was started on Thanksgiving Day, 1911.

Q. 5. When you say “electrical heating appliances” you mean [40] cooking utensils of various sorts, among other things? A. Yes.

(Deposition of Joseph F. Lamb.)

Q. 6. What was the first development of this electrical line, what type of apparatus?

A. Percolator.

Q. 7. And the inception of that was on what date? A. Thanksgiving Day, 1911.

Q. 8. And with what rapidity did the development of other apparatus follow?

A. Well, they were all finished inside of six months. I say all; what I refer to now is

Q. 9. percolator, chafing-dish, disc stove and the sad-iron, and tea-pots—they were all developed inside of six months.

Q. 10. And how soon thereafter did they go on to the market?

A. I cannot give you the exact date when they went on the market.

Q. 11. Well, approximately.

A. I think they were on the market in six months, about six months, but I am not positive about just the date.

Q. 12. Have you subsequently added to this line of goods? A. Yes, in a great many ways.

Q. 13. And have you continued to market them?

A. Yes.

Q. 14. Over what territory?

A. The United States, Canada and Europe—and Australia.

Q. 15. And you are still making and selling this electrical line? A. Yes.

Q. 16. And have your various structures met with success in the trade? A. Yes.

(Deposition of Joseph F. Lamb.)

Q. 17. And how is this indicated? [41]

A. By increased sales. We have increased our business very materially every year.

Q. 18. Starting with the percolator, which I understand is the first of the electrical apparatus which you developed, will you please indicate, in a general way, what the construction was?

A. There was a body, made with a heating unit attached to the bottom. This was to contain the water for the coffee. A base was then made and soldered and riveted to the bottom of the body. I have in my hand a section to show just the construction, which is the original construction and has never been changed. The lower section is the base and the upper section is the body. The unit is attached to the body and the base encloses the unit.

(The device produced by the witness is offered as Defendant's Exhibit 4—section of percolator base.)

Q. 19. This body, then, as I understand, has a surface at its bottom, which rests upon and is secured to the top of the casing or base; is that correct? A. Yes.

Q. 20. And what material is this base made of?

A. Brass.

Q. 21. Is it a casting or sheet metal?

A. Sheet metal.

Q. 22. And is the bottom of this base closed in?

A. It is. On the original base there was an opening left large enough in the bottom to put in the unit, a plate was fitted in the opening, and it

(Deposition of Joseph F. Lamb.)

was then soldered, making it a closed compartment.

Q. 23. Why did you close up this hole in the base, as you [42] have just described?

A. To keep the water from the unit and to conserve the heat, because this utensil would have to be washed, and water getting into the unit would cause it to short circuit.

Q. 24. How did it conserve the heat?

A. By making a dead air space, which is one of the best nonconductors of heat that there is.

Q. 25. Now, what was the next electrical utensil you developed and put out, after the percolator?

A. The chafing-dish.

Q. 26. And will you produce parts of a chafing-dish before you completely manufactured and indicate how that is put together.

A. The construction of the chafing-dish is almost identical with the percolator so far as the body and the base is concerned, the same method being applied.

Q. 27. And in this device you have produced in two parts—what is the larger part?

A. The cooking part.

Q. 28. And the smaller part?

A. The base which encloses the unit.

Q. 29. And in assembling these parts, how are they brought together?

A. By being riveted and then soldered together.

Q. 30. You mean the cooking part is riveted and soldered to the base? A. Yes.

Q. 31. You have testified that this is done in a

(Deposition of Joseph F. Lamb.)

similar manner to what you described in connection with the percolator. A. I have. [43]

Q. 32. And the larger or cooking part rests upon the top of the base? A. Yes.

Q. 33. And of what kind of material is the base made? A. Sheet metal.

Q. 34. And is the opening which appears in the bottom of this base part closed in? A. It is.

(Exhibit produced by the witness is offered in evidence as Defendant's Exhibit 5—partly completed chafing-dish.)

Q. 35. What is this article I hand you?

A. Chafing-dish, with a section cut away to show the construction.

Q. 36. And in the base of this chafing-dish which I have just shown you, the bottom of the cooking portion overhangs and is supported on the upper edge of the base; is that correct? A. It is.

Q. 37. Does this construction generally correspond to the construction which you have described in connection with the percolator, Exhibit 4?

A. It does.

Q. 38. And the unit is attached to what?

A. To the cooking utensil.

(Chafing-dish shown to the witness is offered in evidence as Defendant's Exhibit 6—chafing-dish with cut section.)

Q. 39. Now, what was the next piece of electrical apparatus you made after the chafing-dish?

A. The sad-iron.

Q. 40. And in the construction of the body of the

(Deposition of Joseph F. Lamb.)

sad-iron, [44] is the iron I show you like the iron that you first made? A. It is.

Q. 41. And when was this made?

A. The first iron was made in the week of June 30—July 6, 1912.

Q. 42. That is the date they were manufactured for sale? A. Yes.

Q. 43. And irons were sold pretty soon after that date?

A. Yes. The first sales were in November of 1912.

Q. 44. Now, please state generally what the construction of this iron is.

A. The base of the iron—the sole plate of the iron, then a unit on the upper side of the sole plate, and then the pressure plate to hold the unit against the sole plate, and then a sheet metal shell enclosing the whole and fastened to the sole plate, with its edge against the flange.

(Iron shown witness is offered in evidence as Defendant's Exhibit 7—sad-iron.)

Q. 45. What was the next electrical article you made? A. Disc stove.

Q. 46. Please briefly outline the steps which you followed in the production of the disc stoves.

A. In the development of the disc stove we made the plate or disc for cooking on, and then the unit was attached to the underside of the disc, and then the plate screwed to the disc, and then a drawn sheet metal shell was fastened to the disc by three screws, enclosing the unit in such a manner that the

(Deposition of Joseph F. Lamb.)

flange of the stove overlapped the shell that enclosed the unit on the underside. [45]

Q. 47. And how was the disc supported in this first stove—or cooking surface supported?

A. On the edge of the sheet metal shell.

Q. 48. Did this stove work all right? A. Yes.

(Stove produced by the witness is offered in evidence as Defendant's Exhibit 8—first disc stove.)

Q. 49. And when was the first one made?

A. It was made in the week of June 23–29th, 1912.

Q. 50. And how soon after that did they go on to the market for general sale?

A. Early in 1913.

Q. 51. Now, what, if any, changes have you made in this stove and if any please describe what they were and why they were made?

A. We found that with only one shell to enclose the heating unit there was so much heat from the disc stove that it discolored the nickel plate of the shell, and after it had been in use for a short time it didn't have a nice appearance, and so to overcome this we added the second shell that was supported by three supports to the shell that enclosed the unit and was attached to the disc, and we left a space between the top edge of the shell and the disc to allow for circulation of air and prevent the outside shell from becoming discolored by heat.

(The stove last referred to by the witness is offered in evidence as Defendant's Exhibit 9—disc stove with extra shell.)

Q. 52. In this Exhibit 9 I see a section has been

(Deposition of Joseph F. Lamb.)

cut from it. Please look at the cut surface of this stove, Exhibit [46] 9, and state what the parts are which are to be seen.

A. The upper part is the disc or cooking member. To the underside of this is attached the unit, which is held up against the disc by the pressure plate. These all appear to be in one piece as one looks at the cut surface. The cooking surface, or disc, is supported by a drawn sheet metal shell, being supported on the edge of the sheet metal shell. Enclosing all is a nickel sheet metal shell, supported on the underside of the supporting shell for the disc, out of contact with the cooking surface.

Q. 53. Please state what the device I now show you is. A. Tourists' Iron.

Q. 54. And what is the construction of the iron itself?

A. It has a sole plate and a cover clamped thereto and a covering shell which encloses all and rests against the flange on the edge of the sole plate.

Q. 55. Will you very briefly state the different manners of use of this Tourists' Iron.

A. This Tourists' Iron is used for pressing, as a regular sad-iron; for heating a curling-iron; and, when inverted and supported on its stand can be used as a cooking utensil for heating water, etc.

Q. 56. And when inverted for use as a cooking utensil and supported on its stand, the sole plate becomes the cooking surface? A. It does.

Q. 57. And in such a position, how is the sole plate related to the enclosing shell?

(Deposition of Joseph F. Lamb.)

A. It is above it.

Q. 58. And how is the sole plate supported?

A. By the edge of the shell on its flange. [47]

Q. 59. That is to say, the sole plate is flanged, and this flange rests upon the edge of the shell; is that what you mean? A. Yes.

Q. 60. About when was this Tourists' Iron first marketed and sold? A. September 1914.

(Tourists' Iron produced by witness offered in evidence as Defendant's Exhibit 10—Tourists' Iron.)

Q. 61. What about the handle of this Tourists' Iron?

A. It is removable so that the iron can be inverted to be used as a cooking utensil.

(Witness in testifying as to dates of manufacture and sale of the electrical utensils hereinabove inquired about, has produced certain original books of Landers, Frary & Clark which have been examined by the plaintiff's counsel, and it is stipulated and agreed by and between counsel for the respective parties that the dates of manufacture and sale, and the fact of manufacture and sale of the goods testified above, in substantial quantities, are as testified to by the witness. The books produced by the witness were the order, stock and shipment record of electrical utensils, for the year 1912; record book of the Printing Department for labels and catalogues for the period of April 9, 1912, to November 11, 1912. It is further stipulated and agreed that there has been a general circulation of

(Deposition of Joseph F. Lamb.)

catalogues and display cards and advertisements containing illustrations of the electrical utensils [48] hereinabove testified about by this witness, during the period from April to November, 1912.)

Q. 62. Please look at the patents which I hand you and say whether or not you are the person named as the inventor therein.

A. I am.

(The patents shown the witness are offered in evidence as Defendant's Exhibit 11—Patent No. 1060263; Defendant's Exhibit 12—Patent No. 1060264; Defendant's Exhibit 13—Patent No. 1060265; Defendant's Exhibit 14—Patent No. 1060266; Defendant's Exhibit 15—Patent No. 1060267.)

Q. 63. And you are familiar with the patents and the structures shown therein? A. Yes, sir.

Q. 64. And who are those patents owned by?

A. Landers, Frary & Clark.

Q. 65. And have these various patents any relation to the various electrical utensils Landers, Frary & Clark has made and is making today?

A. They have.

Q. 66. Referring to Defendant's Exhibit 11, Patent No. 1060263, please state whether or not the method of mounting the vessel on the base as illustrated in the drawings is substantially like what Landers, Frary & Clark has used and is using today? A. It is.

Q. 67. And is the same true of the arrangement shown in Figure 4 of Exhibit 12? A. It is.

(Deposition of Joseph F. Lamb.)

Q. 68. And in the drawings of Exhibit 13, Patent No. 1060265? A. It is. [49]

Q. 69. In connection with this Exhibit, particularly in connection with Figures 5 and 6 thereof, please say whether or not the disc stove introduced in evidence as Defendant's Exhibit 8, corresponds to the construction shown in the drawings of this exhibit? A. It does.

Q. 70. And has that construction been regularly used by Landers, Frary & Clark?

A. Yes, but with the addition of the outside shell.

Q. 71. And has this been true for all of the period during which the disc stoves has been made by Landers, Frary & Clark? A. It is.

Q. 72. And in general is the structure of the iron shell in Figures 1, 2, 3 and 4 of this patent the same as has been used by Landers, Frary & Clark?

A. Yes, with a slight modification of the unit.

Q. 73. But the arrangement of the flanged sole plate and the enclosing case has been the same?

A. Exactly the same.

Q. 74. And is it the same as used in the Tourists' Iron, Exhibit 10? A. It is.

Q. 75. As to Exhibits 14 and 15, do they show an arrangement for attaching the vessel to the base, such as has been and is being used by Landers, Frary & Clark? A. They do.

Q. 76. Considering now the complete development of the electrical utensil business of Landers, Frary & Clark, will you please say whether or not they have, in any of the cooking utensils which they have

(Deposition of Joseph F. Lamb.)

manufactured, varied, in any substantial respect,
[50] the method of supporting the cooking surface on the base?

(Objected to as calling for a conclusion of the witness.)

A. They have not.

Q. 77. Do you know this from your personal familiarity with the method of construction of the various cooking utensils of Landers, Frary & Clark?

(Same objection.)

A. I do.

Q. 78. And, just briefly, what is this method of construction?

A. The cooking utensil is supported on a sheet metal base.

Q. 79. Will you go into it a little more in detail and describe what the character of this support is?

A. The cooking utensil has a unit attached to the underside and a sheet metal base is then mounted to enclose the unit and to support the cooking utensil.

Q. 80. Then do I understand that the sheet metal base has a surface of one sort or another upon which the cooking utensil rests?

(Objected to as grossly leading, especially as taken in connection with the previous answers of the witness.)

A. It has.

Q. 81. And is this true of the sad-iron and Tourists' Iron when either of them is inverted?

A. It is.

(Deposition of Joseph F. Lamb.)

Q. 82. What is the chafing-dish that I now show you?

A. One that has been manufactured by Landers, Frary & Clark and sold to Mr. A. G. Kimball.

Q. 83. What was the date of that sale? [51]

A. May 10, 1913.

(It is stipulated and agreed by and between counsel that as plaintiff's counsel has examined the book produced by the witness for the establishment of this date of sale of chafing-dish shown to him, it may be taken as proved that the said chafing-dish was sold to A. G. Kimball, then vice-president of Landers, Frary & Clark and now President, on May 10, 1913.) (The chafing-dish as shown witness is offered in evidence as Defendant's Exhibit 16.)

Q. 84. Are some of the electrical utensils made by Landers, Frary & Clark made under the protection of the patents Exhibits 11 to 15, inclusive, which have been shown to you? A. They are.

(Objected to as incompetent and as calling for a conclusion of law.)

Q. 85. Are some of the electrical cooking utensils made by Landers, Frary & Clark marked with the numbers and dates of any or all of the patents Exhibits 11 to 15 inclusive?

(Objected to as immaterial.)

A. They are.

Q. 86. Please say whether or not, in greater part, the business of the manufacturing of electric cooking utensils, as conducted by Landers, Frary &

(Deposition of Joseph F. Lamb.)

Clark, has been done under the protection of patents granted to that company?

(Objected to as calling for a conclusion of law from the witness.)

A. It has.

Recess until 1:30 P. M. [52]

AFTERNOON SESSION—1:30 P. M.

Q. 87. Referring to this chafing-dish, Exhibit 16, and like devices that Landers, Frary & Clark make, for what use is the body member that is mounted on the base, designed? A. For cooking.

Q. 88. That is, cooking is carried on directly in this body part in some cases?

A. In some cases it is; in other cases it is used where one needs water between the unit and the cooking utensil, like cereals and Welsh rarebits and things of that kind.

Q. 89. In that case the water is put in the main body and the material to be cooked in the pan above it?

A. Yes; the lower member is used for scrambling eggs, frying potatoes, and things of that kind.

Q. 90. Will you explain briefly what the device is that is now before you?

A. An electric heated cooking utensil made to illustrate the J. B. Capek patent of March 14, 1893.

Q. 91. And what particular figures of that drawing is represented by this specimen?

A. Figures 1 and 7.

Q. 92. Is it supposed to be anything more than an illustration of the device shown in this patent?

(Deposition of Joseph F. Lamb.)

A. No.

Q. 93. I see that the inner shells are removable from the outer shells. Why was this left so?

A. I left that so so that I could illustrate that by putting any type of cooking utensil into the outer shell it could be used for cooking waffles or things of that kind.

Q. 94. And have you made some waffle-iron members which will [53] fit the outer shells in place of the receptacles shown in the patent?

A. I have.

Q. 95. And was this all done under your direction? A. It was.

Q. 96. And your idea in making this is merely to have it illustrative of the Capek Patent, Figures 1 and 7? A. It was.

(The article shown to the witness, about which he has just testified, is marked for identification No. 17, Capek, illustrative specimen, with waffle-iron adaptation.)

Mr. LYON.—I move to strike out all the testimony of the witness referring to the so-called Capek device, as incompetent, irrelevant and immaterial.

Direct examination closed.

Cross-examination by Mr. LYON.

XQ. 97. When was Landers, Frary & Clark organized?

A. I couldn't tell you that. It was a great many years ago.

XQ. 98. How long have you been making electrical appliances like these heaters? A. Since 1912.

(Deposition of Joseph F. Lamb.)

XQ. 99. That was the first that they went into that business? A. Yes, sir.

XQ. 100. And you were one of the primary persons that brought about their entering that business, were you? A. Yes, one of them.

XQ. 101. And it was done under your direction, most of it?

A. I wouldn't say under my direction; under the direction of the president of the concern. [54]

XQ. 102. You were consulted? A. Yes.

XQ. 103. What *let* you to go into the electrical appliance business?

A. Because we were in the alcohol heating lines. We realized that with the great demands for electricity it was very important we should add that to our line, together with alcohol.

XQ. 104. I understand you that the percolator was the first electrically heated device; is that correct? A. Yes.

XQ. 105. And who in your company suggested the manufacture of a percolator for the first time?

A. Mr. Smith, President of the concern at that time, now Chairman of the Board of Directors.

XQ. 106. Did you advise with them concerning that? A. I did.

XQ. 107. And before your conception of the manufacture of a percolator by your company, or the conception of Mr. Smith, or anyone of your company, electrically heated percolators were on the market manufactured by other companies, were they not?

(Deposition of Joseph F. Lamb.)

A. They were. Pardon me, I might answer in this way. There was no concern that I know of that manufactured a complete electric percolator. The electric part of the utensil was manufactured by an electric concern and the utensil itself by a concern that made those utensils. Here is a device where the chafing-dish is made by one manufacturer and the electric stove to which it is attached is made by the Simplex Company. This is an old percolator made by Landers, Frary & Clark and sold to the American Electric Heating [55] Company who added the electric stove. Landers, Frary & Clark I believe were the first ones to make a complete electric percolator.

(The devices produced by the witness are offered in evidence as Defendant's Exhibit 18, Prior Simplex Chafing-dish, and Defendant's Exhibit 19, Prior American Company Percolator.)

XQ. 108. But prior to Landers, Frary & Clark's first manufacture of an *an* electric percolator, there were electric percolators for sale on the market, were there not? A. Yes.

XQ. 109. And by whom?

A. The General Electric, Westinghouse, Simplex, those three.

XQ. 110. And perhaps others? A. Yes.

XQ. 111. Now, the next article that you manufactured, as I understand you, of electrically heated appliances, was the chafing-dish; is that correct?

A. Yes.

XQ. 112. The next in order of production, I mean.

(Deposition of Joseph F. Lamb.)

A. I might say this: this line was developed in, say six months' time, and practically all these articles were put on the market at the same time.

XQ. 113. Now, prior to your company's production of the chafing-dish, chafing-dishes were old on the market, electrically heated?

A. Well, yes—I wouldn't say they were old—there was electrically heated utensils on the market.

XQ. 114. And who were selling those, to your knowledge?

A. The General Electric is the only one that I know of.

XQ. 115. And at about this same period, as I understand you, you brought out a sad-iron?

A. Yes.

XQ. 116. Prior to your bringing out a sad-iron, a great many [56] companies were selling electrically heated sad-irons, were they not?

A. I wouldn't say a great many companies; there were a few.

XQ. 117. Will you name those that you knew?

A. General Electric, Westinghouse, Simplex, and the Hot Point Electric Company.

XQ. 118. Any others?

A. That is all that I remember.

XQ. 119. And prior to your development of an electric heated stove or the production of it by your company, these also were old in the art, were they not?

A. There were others on the market, I can't say how old they were. But, as I said before, there

(Deposition of Joseph F. Lamb.)

were no devices in the percolator line on the market that were enclosed with a base on the bottom in the way we have enclosed this one.

XQ. 120. You manufacture and sell electrically heated waffle-irons, I think you said. Is that correct? A. We do; yes.

XQ. 121. And since when?

A. Since October, 1917. That is the manufacture, as I understand it, not the development.

XQ. 122. Some of these waffle-irons were sold for you by the Pacific States Electric Company, the defendant in this case?

A. I don't know; I couldn't answer that question.

XQ. 123. Have you not been informed that the particular article alleged to infringe the patent in suit in this case in which you are testifying, is an article manufactured by Landers, Frary & Clark?

A. Yes.

XQ. 124. And Landers, Frary & Clark has assumed the defense in [57] this case in which you are testifying, have they not?

(Objected to as immaterial, incompetent and not proper cross-examination.)

XQ. 125. None of the electrically heated appliances manufactured by you prior to the development of your waffle-iron were provided with aluminum cooking surfaces, were they?

A. Yes, they were.

XQ. 126. What ones? A. The percolator.

XQ. 127. And that is all, to your knowledge?

(Deposition of Joseph F. Lamb.)

A. I am not positive about the round grill. I think we have sold some aluminum pans, but I am not positive.

XQ. 128. Otherwise, the cooking surface of these various electrical appliances manufactured by your company have been of sheet metal, haven't they?

A. Not altogether; no. There have been castings.

XQ. 129. Either castings or sheet metal?

A. Yes.

XQ. 130. Now, the waffle-irons manufactured and sold for your company include a pair of casings pivotally connected together, do they not?

A. They do.

XQ. 131. And each of them includes a waffle member provided with aluminum baking surfaces mounted on each of those casings, do they not?

A. They do.

XQ. 132. And those aluminum baking surfaces are so formed that each of them covers the upper edge of their respective casings, do they not?

A. They do.

XQ. 133. And included within your waffle-iron are means mounted in the casings, between the casings and the waffle members, for electrically heating the waffle members; is that correct? [58]

A. Not between, I wouldn't say between. There is an electric unit positioned on the bottom of the waffle-iron, the same as we do with all other appliances.

XQ. 134. The electric heating units are posi-

(Deposition of Joseph F. Lamb.)

tioned between the bottom of the cooking surface and one face of the casings, between which the cooking surface is mounted?

A. It is fastened to the bottom of the waffle-iron.

XQ. 135. Then in your waffle-irons the heating units are placed between the heating surface and one surface of the respective casings; is that correct?

A. There is no space between the unit and the surface; it is fastened right to it. The question would indicate that the unit was placed in between the two. It is not; it is clamped against the heating surfaces the same as in the other electric appliances, just the same as we have done in everything we have made.

XQ. 136. Is there anything between the heating element and one face of the casing? A. There is.

XQ. 137. What?

A. The plate that clamps the unit, just as we do in the stove, the chafing-dish, and everything we make, identical.

XQ. 138. Then as I understand you, your waffle-iron includes a heating element mounted between the casing and the waffle members for heating the waffle members; is that correct?

A. No, it is not. It is attached to the heating surface; there is no space between.

XQ. 139. What do you mean "there is no space between"?

A. Between the unit and the waffle-iron and the casing. There is a space beneath the underside of

(Deposition of Joseph F. Lamb.)

the plate that [59] clamps the electric unit to the waffle-iron.

XQ. 140. Except for this plate, there is nothing between the heating element and the face of the casing below, is there? A. No.

XQ. 141. You mean there is not?

A. There is not.

XQ. 142. Well, then, considering the face of the casing and the waffle member, between those two, there is in your waffle-iron a heating member, is there not?

A. No, there is a heating member between the plate and the waffle-iron. There is a plate to add in between there that clamps. This unit is clamped to the bottom and there is a plate underneath. There is air space below the plate, but not between the unit and the waffle-iron.

XQ. 143. What is the function of this plate?

A. To hold the unit against the cooking surface to be heated.

XQ. 144. That is the only function of the plate?

A. That is the only function.

XQ. 145. Referring to this Capek specimen marked for identification 17, where in the Capek patent referred to by you do you find any suggestion of making the members detachable?

A. My only reason for making them detachable was to illustrate, not for use, it was just to illustrate.

XQ. 146. Then this specimen produced by you is

(Deposition of Joseph F. Lamb.)

not a workable article but is merely for illustration purposes? A. Yes.

XQ. 147. And this specimen has been produced by you with the Wright waffle-iron in view, to show how the Capek [60] device can be adapted to approximate in your opinion the Wright waffle-iron; is that so? A. That is not so.

XQ. 148. With what object in view did you make this specimen?

A. To show that it could be adapted in the same way that Landers, Frary & Clark made their waffle-iron, which was made before we knew there was such a patent as the Wright patent.

Mr. LYON.—I move to strike out the statement “before we knew there was such a patent as the Wright patent” as not responsive.

XQ. 149. Where in the Capek patent is there any suggestion of substituting waffle members such as produced by you for the elements shown in figure 7 of the drawing?

A. A number of things, as well as waffles, that want heating on both sides, and the Capek patent is made for just those different articles that want to be cooked in that way, just the same as a waffle-iron.

XQ. 150. Well, can you show in the Capek patent where the use of waffle members is suggested?

A. Yes, by having the hinge and folding over in the way all waffles are made.

XQ. 151. But there is no other suggestion concerning waffles in the Capek patent, is there, not

(Deposition of Joseph F. Lamb.)

specifically mentioning the waffle members or waffle surface? A. No.

XQ. 152. I notice in this specimen No. 17 you have omitted the portions of the device of Figure 7 of the Capek patent which are numbered 42, 49' and 49 respectively. That is true, is it not?

A. It was not intentional to omit them. They have the [61] same function as the hinges on our own waffle-iron.

Mr. LYON.—I move to strike out the answer as not responsive and I ask that he answer the question yes or no.

Mr. HART.—I instruct the witness that there is no necessity for such an answer, yes or no, if by so doing he is unable to make his meaning clear.

A. As I see the patent it represents a hinge, and we have put on a different type of hinge and it performs the same function as those two members. I can see no difference only it is a different type of hinge.

XQ. 153. Would you, as an officer of Landers, Frary & Clark, advise your company to place on the market for sale, for the purposes of a waffle-iron, devices constructed in accordance with Specimen 17, utilizing the waffle surfaces, also made by you, and included in such specimen?

Objected to as entirely incompetent and immaterial.

Mr. LYON.—And the witness is requested to answer the question "Yes" or "No."

(Deposition of Joseph F. Lamb.)

A. A very efficient waffle-iron could be made in that way.

Mr. LYON.—I move to strike out the answer and I further request that the witness answer the question “Yes” or “No.”

A. Yes, I would.

XQ. 154. Why don't you manufacture them that way instead of the articles you now are selling for waffle-irons?

A. I consider that the two are identical, only one is round and the other is square. There is no real difference in either construction. [62]

XQ. 155. Landers, Frary & Clark have assumed control and have control of the defense of the particular case in which your deposition is now being taken, and Mr. Hart, who has examined you, and Mr. Bartlett, of New York, who is of counsel in the case, are both appearing as your attorneys, are they not? A. They are.

Objected to as immaterial.

Redirect Examination by Mr. HART.

RDQ. 156. In answer to one of the questions asked you on cross-examination you said that Landers, Frary & Clark had begun their work on their waffle-iron before you had any knowledge of the Wright patent.

Objected to as not proper redirect examination and as immaterial.

A. Yes, sir.

RDQ. 157. In the development of your waffle-iron and in the method of arranging the waffle surface

(Deposition of Joseph F. Lamb.)

in respect to the enclosing case, was there anything in your prior practice or experience in building electrical equipment which you were able to use as a guide?

Objected to as incompetent, irrelevant and immaterial.

A. All of the appliances which we have made for cooking utensils have been enclosed in a base, with one or two exceptions, in the same way that we have made the waffle-iron.

Mr. LYON.—Moved to strike out the answer of the witness as a mere conclusion.

RDQ. 158. In cross-examination you were asked if in your waffle-iron the aluminum baking surfaces cover the upper edge of their respective casings. Now, in other and prior [63] cooking utensils which Landers, Frary & Clark made, were there cooking surfaces covering the upper edge, resting on the upper edge of the casing? A. There were.

RDQ. 159. And was that the common method of construction uniformly used by Landers, Frary & Clark?

Objected to as leading.

A. Yes.

RDQ. 160. So that in this respect, when it came to making a waffle-iron, you did not depart from your former methods in the manufacture of other goods?

A. We did not, and we were pioneers in that construction.

Mr. LYON.—Moved to strike out the portion

(Deposition of Joseph F. Lamb.)

stating that they were pioneers in that construction.

RDQ. 161. Do you know of any other manufacturer of electric cooking utensils who, prior to the entry of Landers, Frary & Clark in the field, made their utensils with an enclosing shell or casing, upon the upper edge of which rested the cooking surface?

A. There were some few exceptions, but in percolators, chafing-dishes and things of that kind, those utensils were made by people who made the regular household utensils and the electric stove was attached to the bottom, without a casing. In the original development of our line, we made all of our utensils with a base to enclose the electric stove or heating unit, where the others had left it exposed.

RDQ. 162. And it was on the upper edge of such a base that the cooking surface was mounted, was it? A. It was.

RDQ. 163. Prior to the manufacture of the electrical heating [64] utensils, such as percolators, chafing-dishes, stoves, etc., by Landers, Frary & Clark, I understood you to testify on cross-examination that they made a complete line of such articles heated by alcohol lamps and the like; is that correct? A. It is.

RDQ. 164. So that when they entered this electrical field, they were merely replacing that type of heat producing element with an electrical heat producing element; is that correct?

Objected to as leading.

(Deposition of Joseph F. Lamb.)

A. They did.

RDQ. 165. Please say how your waffle-iron differs from your stove, Exhibits 8 and 9, in respect to that feature of the waffle-iron where the baking surface extends over and rests upon the upper edge of the casing.

Objected to as irrelevant, and that questions of comparison and difference are matters for the Court. The witness can only testify as to the facts.

A. I consider they are practically the same.

RDQ. 166. Was the use of aluminum cooking surfaces known to Landers, Frary & Clark at or prior to the time it started in the manufacture of electrical cooking utensils?

Objected to as irrelevant and immaterial.

A. It was, as a matter of fact. We were making cooking utensils of aluminum at that time.

RDQ. 167. And the characteristics and advantages of aluminum as cooking surfaces were well known to Landers, Frary & Clark at that time.

Same objection. [65]

A. They were.

Cross-examination by Mr. LYON.

RXQ. 168. Prior to the development of your waffle-iron, were you and other officials with whom you advised, familiar with waffle-irons manufactured by the Simplex Electric Heating Company?

A. I can only answer for myself.

RXQ. 169. Were you, personally? A. Yes.

RXQ. 170. Do you consider the Simplex Electric Heating Co. waffle-iron the equal to yours?

(Deposition of Joseph F. Lamb.)

Objected to as incompetent, entirely immaterial and irrelevant.

A. In what way?

RXQ. 171. As a commercial article and one which you would advise the trade to purchase?

Same objection.

A. I do not.

RXQ. 172. For that reason you manufactured your own form of waffle-iron instead of that manufactured by the Simplex Company; is that correct?

A. Not for that reason.

RXQ. 173. Why?

A. We manufactured waffle-irons because it was a natural development of our line. We never considered the Simplex—their iron, at all.

RXQ. 174. You don't consider it in any way comparable in structure or operation to your iron; is that correct?

A. I have never used the Simplex waffle-iron and would not be in a position to give you a fair answer.

RXQ. 175. Do you believe that if presented at the same price, to the same trade, that your waffle-iron will outsell [66] the Simplex waffle-iron?

A. That is not a fair question. It would be impossible to produce the Simplex iron at the same price and it could not be used in the same way.

RXQ. 176. Why not?

A. Because it takes more current than goes on a lamp socket.

RXQ. 177. How about the cost of manufacture of the two, how do they compare?

(Deposition of Joseph F. Lamb.)

A. I couldn't tell you because I have never made a comparison, only I do know this, that it would cost more to manufacture the other.

RXQ. 178. Which do you mean by "the other"?

A. The Simplex.

Deposition closed.

It is stipulated and agreed by and between counsel for the respective parties that the signatures of the witnesses are waived, and that these depositions have been taken stenographically, by agreement.

It is stipulated and agreed by and between the parties hereto that printed patent office copies of patents may be used in lieu of originals and with the same force and effect, subject of course to objection and correction by comparison with the original ones.

It is stipulated by and between the parties hereto that the defendant will produce an aluminum waffle-iron made by the Griswold Manufacturing Co., of Erie, Pennsylvania, such as is illustrated on page 18a of a catalogue of the Griswold Mfg. Co., [67] known as Bulletin No. A-4; and that waffle-irons such as illustrated on the aforesaid page of the identified catalogue and like ones to be produced, have been manufactured and sold in the markets of the United States prior to the earliest date of invention which may be claimed in behalf of the patentee of the patent here in suit.

The catalogue of the Griswold Mfg. Co. is offered

in evidence as Defendant's Exhibit 20, Griswold Catalogue.

The waffle-iron made by the Griswold Mfg. Co. is offered in evidence as Defendant's Exhibit 21, Griswold Aluminum waffle-iron.

[Endorsed]: No. D.-68. U. S. District Court, Southern District of California, Sou. Div. Wm. D. Wright v. Pacific States Elect. Co. Dep. Nelson E. Mann and Joseph F. Lamb. Filed Feb. 3, 1920. Chas. N. Williams, Clerk. By R. S. Zimmerman, Deputy Clerk. [68]

Testimony and Proceedings on Trial.

Mr. L. S. LYON.—Yes, we allege that claims 6 to 9, inclusive, are infringed.

Mr. BARTLETT.—If your Honor pleases, I apologize for my making a brief statement. Mr. friend could do it a great deal better, but it happens I have been so long connected with the concern, he thinks I should make a brief statement of our position. So with those apologies, let me just say, without undertaking to make any argument, that the defendant is, as has been said, a large manufacturer of these goods, and has been since 1911 and 1912, this class of goods. The nominal defendant is simply a retailer here in Los Angeles. The real defendant, as appears on the record, is Landers, Frary & Clark, a manufacturer of these goods, from Connecticut. When I speak of the defendant, I

refer to the real defendant, Landers, Frary & Clark.

Mr. L. S. LYON.—We first offer in evidence the original patent in suit, as Plaintiff's Exhibit 1.

(The document so offered and received in evidence was marked Plaintiff's Exhibit No. 1.)

Mr. L. S. LYON.—And we offer in evidence the infringing device, and ask that it be marked Plaintiff's Exhibit 2. Mr. Bartlett, we would like to offer this in evidence, and will you stipulate that it was manufactured by Landers, [69] Frary & Clark subsequent to the issuance of the patent in suit, and sold by the defendant in this case prior to the institution of this suit, and subsequent to the issuance of the patent in suit?

Mr. BARTLETT.—Yes.

Mr. L. S. LYON.—And, unless an injunction is issued, you intend that this device shall be continuously sold?

Mr. BARTLETT.—Yes.

Mr. L. S. LYON.—We offer that in evidence as Plaintiff's Exhibit 2.

(The device so offered and received in evidence was marked Plaintiff's Exhibit 2.)

Mr. L. S. LYON.—I desire to offer in evidence a letter under date of December 17, 1917, to Landers, Frary & Clark, and an annexed circular, which is our written notice to Landers, Frary & Clark of the issuance of the Wright patent. Will you admit that you received the letter, or do you want me to call the writer, or will you admit that the defendant had notice of the Wright patent?

Mr. BARTLETT.—Yes.

Mr. L. S. LYON.—Which would be the equivalent.

Mr. BARTLETT.—Yes; and I presume this letter is all right, although I never have seen it. You don't need it. We admit notice.

Mr. L. S. LYON.—Well, you admit notice?

Mr. BARTLETT.—We admit notice, yes. [70]

Mr. L. S. LYON.—Prior to the institution of this suit, you had notice of the patent.

Mr. BARTLETT.—Yes.

Mr. L. S. LYON.—Mr. Wright, take the stand, please. [71]

Testimony of William D. Wright, in His Own Behalf.

WILLIAM D. WRIGHT, the plaintiff herein, called as a witness on his own behalf, being first duly sworn, testified as follows:

Direct Examination by Mr. L. S. LYON.

Q. You are the plaintiff in this suit, Mr. Wright?

A. Yes, sir.

Q. And you are the William D. Wright to whom the letters patent in suit were issued?

A. Yes, sir.

Q. Prior to February 5, 1916, in what business were you engaged?

A. I was a floor manager for Alfred Stahl & Sons, in San Diego.

Q. What business is Alfred Stahl & Sons engaged in?

A. In the business of selling house furnishings, such as used in the kitchen and dining-room; queensware and metal goods.

Q. When did you first become interested in elec-

(Testimony of William D. Wright.)

trical waffle-irons? A. In October, 1915.

Q. Will you state the circumstances?

A. I was working with an electric broiler at the time, and other electric devices, and also working with a gas waffle-iron in a cabinet form, where the gas waffle-iron was suspended from a carrier, so the gas blaze would strike [72] on both sides of the iron at the same time; and in working with that, the suggestion came to me, upon laying this down, this aluminum plate down upon an element I was working with, of applying electricity to the waffle-iron.

Q. When you say you were working with these things, what do you mean by you were working?

A. I had developed the broiler at that time, and also another device.

Q. In other words, you were getting them up yourself? A. Yes, sir.

Q. Well, what was the next thing you did with the electric waffle-irons?

A. I finished the electric waffle-iron and sold it to the man who owned the gas iron I was working with, a Mr. Quince C. Crane, and he being in the restaurant business saw the possibilities of the iron and wanted to know the chances of becoming associated with me in the manufacture and sale of this iron.

Mr. BLAKESLEE.—We move to strike out the answer, on the ground it states a conclusion, not a statement of fact, in that he states he finished

(Testimony of William D. Wright.)

something. We think he should specify what he did, if anything.

Mr. L. S. LYON.—That is preliminary, Mr. Blakeslee.

The COURT.—I will strike out that part of the answer in regard to that, and that he saw the possibilities of it.

Q. (By Mr. L. S. LYON.) Explain what you completed at that [73] time.

A. I completed an electric grill, that we call a broiler; also I completed an electric waffle-iron.

Mr. BLAKESLEE.—We make the same motion, your Honor. We think he should be asked what he did.

The COURT.— I will overrule the motion.

Q. (By Mr. L. S. LYON.) Will you explain in detail the construction of what you have mentioned?

A. The first article I completed was a supporting stand, holding hollowed aluminum tubing, in which I invented electrical elements so the heat would be conveyed from the element to the food cooking through the aluminum tubing. That was connected, the electrical element, was connected by wires, so that it could be attached to an ordinary lighting circuit. Then I completed a pair of metal casings, with a hinge, and in that casing I installed an electrical element next to the aluminum surface, so that the heat from the element could be conveyed to the food I wished to bake in a waffle-iron.

Q. Where is that original device, if you know?

A. The original device is the large square one on the table here.

(Testimony of William D. Wright.)

Q. Is this the device you refer to (indicating)?

A. Yes, sir.

Q. When was this completed?

A. That iron was completed either in the last of October, [74] the last week, or the first week in November, 1915.

Mr. L. S. LYON.—The device is offered in evidence as Plaintiff's Exhibit 3.

(The device so offered and received in evidence was marked Plaintiff's Exhibit 3.)

Q. Will you explain this to the Court, please?

Mr. BLAKESLEE.—We object to the offer, your Honor, on the ground it has not been completely identified, and that it is immaterial and irrelevant, as it has nothing to do with the invention of the patent in suit. It is not the structure of the patent in suit, and obviously not in exemplification of any claim in the patent in suit.

The COURT.—I will overrule the motion.

Mr. BLAKESLEE.—Exception.

A. The aluminum plate I used was the aluminum plate taken from the element or from the gas iron that I had been working with. This carrier ran up here a little bit further, and had a flange on it, so it could slide in the carrier of the gas iron oven. I sawed that off, built my box to conform to the sawed-down aluminum plate. Then I used the electrical element that I had developed for a previous article, applied that to the base of this, using isinglass as a nonconductor between the two, and then as a supporting base underneath that I laid

(Testimony of William D. Wright.)

a sheet of what we know as board asbestos, holding that in position by strips of the board asbestos. The asbestos used in [75] this iron now has been replaced once, I believe, from that time, because of the heat having a tendency to dry that. Outside of that—and also, since that date, I have added one pair of bifurcated tubings. The first iron I completed had just one pair. I added that since that, for the reason that the two wires in one tubing, becoming heated and charred from the heat of the iron, had a tendency to short in there. Outside of this addition, and the asbestos plate inside of this, this iron is identically the iron built and put in use in November, probably the last week in October or the first week in November, 1915.

Q. (By Mr. L. S. LYON.) When you say “put in use,” will you describe what you mean by that? What did you do with the iron, Mr. Wright?

A. The iron was given to Mr. Quince Crane, and in turn Mr.—

The COURT.—Is this date of invention involved in this case?

Mr. L. S. LYON.—Well, we want to prove the operation of the devices, that they will actually operate, your Honor. I think we are entitled to do that, as having some bearing on the patent.

Mr. BLAKESLEE.—If that is the ground of the proof, or the reason, we object as entirely irrelevant and immaterial, as this does not contain the structure of the patent in suit. [76]

The COURT.—Well, they can put this in evi-

(Testimony of William D. Wright.)

dence. I don't think it is necessary, but I will take this witness' testimony about it.

Mr. BLAKESLEE.—I cannot see that it is material at all.

The COURT.—What he did before he got his patent is of no consequence, it seems to me.

Mr. L. S. LYON.—All we want to show is—

The COURT.—Unless the date of invention is involved.

Mr. L. S. LYON.—We want to show the things will work, your Honor.

The COURT.—Sir?

Mr. L. S. LYON.—We want to show they will work.

The COURT.—Well, that is all right, but that is not what you are doing. You are talking about how he came to invent this thing, and how he invented it, and what it was.

Q. (By Mr. L. S. LYON.) What was done with that iron?

A. This iron was given to Mr. Quince C. Crane, and he, not keeping house at that time, gave it to the possession of his brother, Mr. Will Crane, who was keeping house, and Mrs. Will Crane has had it in her possession since.

Q. Do you know whether it has ever been used for cooking at all? A. Yes, sir.

Mr. BLAKESLEE.—The same objection, entirely immaterial and irrelevant.

The COURT.—I will overrule that objection.
[77]

(Testimony of William D. Wright.)

A. Yes, sir.

The COURT.—Has it been used in cooking?

A. Yes, sir; it has been in continuous use since that date.

Q. (By Mr. L. S. LYON.) For cooking waffles?

A. Yes, sir.

Q. And it has worked satisfactorily, has it?

A. Yes, sir.

Q. What is the next step you did with your invention, towards getting your patent, Mr. Wright?

Mr. BLAKESLEE.—We object to that.

Mr. L. S. LYON.—We are coming right down to the patent, your Honor.

Mr. BLAKESLEE.—We object to that as entirely irrelevant and immaterial at this time. If there is anything to be proved about the date of the invention, that should be a matter of rebuttal.

The COURT.—Is the date of invention involved here?

Mr. BLAKESLEE.—We have taken depositions, and have in evidence exhibits showing early devices, yes, which we contend are the same thing.

The COURT.—Well, do you want to go into that issue now?

Mr. F. S. LYON.—That is not the issue, your Honor. They have indicated in their opening statement the contention that this device, as a waffle-iron, *per se*, without a grill, was not what Mr. Wright asked or sought a patent [78] on, nor the invention he had.

The COURT.—That is not what you are trying

(Testimony of William D. Wright.)

to prove now. You have got that in, when he got it, and that he made it.

Mr. F. S. LYON.—The only object is to show the making of other waffle-irons by him; that is all we want to do at this time.

Q. (By Mr. L. S. LYON.) Well, to corroborate your testimony, that you actually made this, Mr. Wright, have you any record that shows, or any drawing of any kind, that shows the construction of this waffle-iron, made at a time prior to the application for your patent?

A. At the time that our search was made in Washington, I took the wrapping of this iron that I had taken up to the attorney, with the grill, and drew a rough sketch on that, so that our attorney could send that on to Washington to complete the search, to have something to give him a clue to what he was looking for.

Q. I show you a carbon copy of a letter, and a carbon duplicate of a letter, with a drawing attached. Is that the letter and drawing that you referred to?

Mr. BLAKESLEE.—We further object, your Honor, that it is an attempt somehow by evidence to construe the patent in suit. Now, that is not the proper procedure. The patent speaks for itself, and the fact this witness had some other thing which is not shown or claimed to be [79] patented cannot be material or relevant to this issue.

The COURT.—I will overrule the objection.

Mr. BLAKESLEE.—Exception.

(Testimony of William D. Wright.)

A. This is a copy of the letter and the drawings that I sent east, or that our attorney sent east at that time.

Mr. L. S. LYON.—This is offered in evidence.

The CLERK.—Plaintiff's Exhibit No. 4 filed.

(The document so offered and received in evidence was marked Plaintiff's Exhibit No. 4.)

Q. (By Mr. L. S. LYON.) Had you, prior to the time your patent application was filed, constructed any other device that embodied a waffle-iron?

Mr. BLAKESLEE.—The same objection.

The COURT.—Overruled.

Mr. BLAKESLEE.—Exception.

A. I did not get the exact question, Mr. Lyon?

The COURT.—Read it, Mr Reporter.

(Question read.)

A. I had, yes, sir.

Q. (By Mr. L. S. LYON.) Will you describe that device?

Mr. BLAKESLEE.—Can it be produced here?

Mr. L. S. LYON.—I will let him describe it first.

A. The thought occurred to me at the time also of a combination holding device that could be used for several purposes, and having the broiler and a waffle-iron, and I combined two together, to make a third device, that [80] could be used for general cooking purposes.

Q. Have you that device, Mr. Wright?

A. Not the first device I built, Mr. Lyon. This device I have here was built in January. My first device was built in December.

(Testimony of William D. Wright.)

Q. January of what year? A. January, 1916.

Q. I suppose they were substantially the same?

A. Substantially the same; yes, sir.

Q. For the purpose of identification, is this the device referred to by you, made in January, 1916 (indicating)?

A. That is the device, with one or two exceptions, Mr. Lyon. I have added since that date a box containing just two switches, in place of three switches, and some of the screws in there—I had taken this particular arrangement apart and was using it just as a waffle-iron in my own home, and I have reassembled that for this case. That is substantially the same iron, with the exception of a few screws used, where it was riveted together, that I built at that time.

Mr. L. S. LYON.—The device is offered in evidence as Plaintiff's Exhibit—

The CLERK.—Plaintiff's Exhibit No. 5.

Mr. BLAKESLEE.—We object to that as fragmentary, and not proper proof.

The COURT.—Overruled. [81]

Mr. BLAKESLEE.—Exception.

(The device so offered and received in evidence was marked Plaintiff's Exhibit No. 5.)

Q. (By Mr. L. S. LYON.) Was this device, Plaintiff's Exhibit 5, or its duplicate that you made before, ever actually used?

A. Yes, sir.

Q. Was it used for waffles?

A. It was used for waffles, yes, sir.

(Testimony of William D. Wright.)

Q. Used for anything else?

A. It was used for grilling bacon; it was used for toasting; and it has been used for heating a percolator.

Q. Did it operate successfully?

A. Reasonably successfully; yes, sir.

Mr. BLAKESLEE.—We object to that as calling for a conclusion, your Honor.

The COURT.—Well, I think it is a conclusion, but I presume the inventor has a right to express a conclusion and give his opinion. That is all it amounts to.

Q. (By Mr. L. S. LYON.) Was the bacon cooked?

A. It baked the waffle; it grilled the bacon; and it heated the percolator.

Q. Did you make any other devices at any time like this, Plaintiff's Exhibit 3?

A. Owing to the fact that this larger iron drew more heat and more current than the ordinary house wiring would carry, [82] and to the fact that this baked two waffles at one time, in December, 1915, I constructed a single waffle-iron.

Q. Have you that waffle-iron, Mr. Wright?

A. That is the one that is cross-sectioned here, Mr. Lyon.

Mr. L. S. LYON.—That is offered in evidence as Plaintiff's Exhibit—

The CLERK.—Plaintiff's Exhibit No. 6.

Mr. BLAKESLEE.—We object to that on the same grounds,—entirely irrelevant and immaterial,

(Testimony of William D. Wright.)

and on the ground it does not embody the structure and the matter claimed in the patent in suit.

The COURT.—They claim it does. I will overrule the objection.

Mr. BLAKESLEE.—Exception.

(The device so offered and received in evidence was marked Plaintiff's Exhibit No. 6.)

Q. (By Mr. L. S. LYON.) Was this waffle-iron ever used, Mr. Wright?

A. Yes.

Q. This last one? A. Yes.

Q. Will you state the circumstances of its use?

A. When it was used?

Q. Yes, and what it was used on, and how it worked.

A. Mr. Crane used this iron in demonstrating to [83] prospective customers. It was taken into an apartment house in San Diego by a Mr. Jones, the President of the San Diego Gas Company, and used by him in the apartment house to demonstrate to other parties; and it has been used continuously by several people since then.

Q. What is this bill, if you know, Mr. Wright (showing paper to witness)?

A. This is a bill covering six more pair of casings, similar to this one here (indicating).

Q. Which one? A. The large one.

Q. This one (indicating)?

A. Six more pair of castings.

Q. Exhibit No. 3?

A. The same as Exhibit No. 3, that I had built

(Testimony of William D. Wright.)

by the Ingle Manufacturing Company for me.

Mr. L. S. LYON.—The bill is offered in evidence as Plaintiff's Exhibit—

The CLERK.—Plaintiff's Exhibit 7.

Mr. BLAKESLEE.—The same objection as before.

The COURT.—Overruled.

Mr. BLAKESLEE.—Exception.

(The document so offered and received in evidence was marked Plaintiff's Exhibit 7.)

Q. (By Mr. L. S. LYON.) Do you know what this is, Mr. Wright (showing object to witness)?

[84]

A. That is the commercial form of iron that we expected to make.

Q. When was this iron made, that I have in my hand?

A. In January, 1915, with the exception of the brass plate on there; that has been added since.

Q. What year? A. 1916.

Q. And was this iron shown to your patent attorney at the time you prepared your patent application?

A. No, the larger iron—yes, I will take it back. The three irons were shown to the patent attorney, this iron, the single unit, and this one.

Mr. BLAKESLEE.—Objected to as entirely immaterial and irrelevant, that it was shown to his patent attorney. The patent speaks for itself.

The COURT.—Objection overruled.

Mr. BLAKESLEE.—Exception.

(Testimony of William D. Wright.)

Mr. L. S. LYON.—This iron, which is the last one, is offered in evidence as Plaintiff's Exhibit No. 8.

(The device so offered and received in evidence was marked Plaintiff's Exhibit No. 8.)

Q. (By Mr. L. S. LYON.) This Exhibit No. 8 is the one you referred to as making in January, 1916?

A. Yes, sir.

Q. Now, the three irons you showed to your patent attorney, the three waffle-irons, are Exhibit No. 8, Exhibit [85] No. 3, and Exhibit No. 5; is that correct? A. Yes, sir.

Q. Now, will you state to the Court the circumstances surrounding the making of your drawing, the reason for the drawing being made the way it is, the drawing in your patent?

A. The attorney, the patent attorney that I went to first, said that he could draw the patent paper so that the one patent, or the one application fee, could cover both devices, not necessitating an application for each device in itself.

Mr. BLAKESLEE.—We move to strike that out as entirely irrelevant and immaterial, and the testimony is incompetent also. The patent must speak for itself, and any *ex parte* statement of the attorney to his client cannot be of any probative force.

The COURT.—I think the objection is well made.

Mr. L. S. LYON.—We do not expect that this can prove the construction of the patent, or its terms; but the contention can be made, and doubt-

(Testimony of William D. Wright.)

less will be made, by defendant, if we do not have evidence to the contrary, that this is an afterthought of ours. We want to show that these claims which are in the patent, and not connected with the grill member, were purposely put in to cover this particular form of device, and that was the intention of the parties, and that we are not trying to [86] take these claims and use them to cover something we had not actually invented prior to the time the application was filed.

Mr. BLAKESLEE.—Such proof would be incompetent. The patent must be construed by the Court in view of the prior art, and the file-wrapper and contents, and not by anything that was a mere naked intention of the patentee or his attorney.

The COURT.—That is not what he makes, a naked contention, but he is proving here a communication that he had between himself and his attorney. I do not see how an opinion of his attorney is relevant.

Mr. BLAKESLEE.—That is *ex parte* entirely.

Mr. L. S. LYON.—I am merely using that to corroborate what his actual intention was in signing the papers. Of course, we have a right to show what the ideas of the man were, that wrote that language, to show what he meant by it, it seems to me.

The COURT.—If it is ambiguous. If it is not ambiguous, why?

Mr. L. S. LYON.—How can we decide now

(Testimony of William D. Wright.)

whether it is ambiguous or not, until we come to the argument?

The COURT.—I don't know whether it is or not.

Mr. L. S. LYON.—I don't know either. I claim it is not. I would like to put in the evidence, so that if they claim it is, then it will show what they meant by [87] it.

Mr. BLAKESLEE.—He cannot bring in a lot of things he might have covered by other applications for patent, and say these things are to be covered by this application in suit.

The COURT.—I will sustain the objection.

Mr. L. S. LYON.—Exception.

Q. Mr. Wright, what did you desire to protect or cover in this application; what devices or device did you have in mind covering?

Mr. BLAKESLEE.—Now, that is the same thing, your Honor. His desire cannot be evidence.

The COURT.—The objection will be sustained.

Mr. L. S. LYON.—I thought your Honor ruled on the ground we were asking for an opinion of the attorney, and what the attorney said. We would like to prove Mr. Wright's actual intent when he signed these papers.

Mr. BLAKESLEE.—That is even further afield. Desire is not evidence of a fact.

The COURT.—Never mind, Mr. Blakeslee.

Mr. L. S. LYON.—Do I understand the Court ruled?

The COURT.—I sustained the objection.

(Testimony of William D. Wright.)

Mr. L. S. LYON.—Well, I *don't* to repeat questions in different forms. Do I understand the Court has ruled we cannot—

The COURT.—Your application will show what he did. [88] Now, if there is any ambiguity about it, and if it is not illustrated by these devices, then you can produce evidence to explain the ambiguity, if it is a latent ambiguity. If there is no ambiguity about it, we don't need any evidence.

Mr. L. S. LYON.—I didn't hear the last.

The COURT.—I say, if there is no ambiguity about it, we don't need any evidence of what the man intended by what he did. The application for the patent will speak for itself.

Mr. L. S. LYON.—May I ask when we are going to decide whether there is any ambiguity about it?

The COURT.—Decide that for yourself. If it is ambiguous, why, say so.

Mr. L. S. LYON.—Well, the defendant has claimed that it is. We claim it is not.

Mr. BLAKESLEE.—We make no such contention, if your Honor please. We simply state that the meaning is clear and plain, and the claims are to be construed as usual, in the light of specifications and drawings, and there is no ambiguity, and there is no necessity for attempt—and there should be no permission to attempt to broaden out this narrow claim.

The COURT.—Proceed, Mr. Lyon.

Mr. L. S. LYON.—Well, we will take an exception.

(Testimony of William D. Wright.)

The COURT.—All right. [89]

Q. (By Mr. L. S. LYON.) After you filed your application, Mr. Wright, did you make any arrangements for the manufacture of this device, or have any plans for the manufacture of this device?

A. Mr. Crane formed a corporation under the state laws of California, with the view of placing the waffle-iron on the market.

Q. And who was connected with that corporation?

A. Mr. Quince Crane, Mr. O. E. Marks, and myself.

Q. And how far did you proceed with your plans for placing the articles on the market?

A. We had secured a ground site for a building, made arrangements with the foundry for the building of the waffle-iron, for the casting of the aluminum waffle-mold, and because of giving him the contract for that, he had agreed to furnish us with power from his plant. We had made arrangements, or were making arrangements, for the metals, and had ordered some of the material, and were expecting to start along about the last of October or the first of November, 1917—1916, I should say.

Q. Who was putting the money,—who were planning to put the money into this company?

A. There were several men in San Diego. Mr. Quince Crane, Mr. Will Crane, a Mr. Sinclair, a Mr. Hills, and another party,—I cannot call his name just now.

(Testimony of William D. Wright.)

Q. Was Mr. Quince Crane the principal backer of the concern? [90] A. Yes, sir.

Q. What became of that project?

A. Mr. Quince Crane was the manager at that time of the Hotel Cecil. He resigned his position as manager of the Hotel Cecil, after we had ordered some of the materials, and took a two-weeks' trip up to Powatan Lodge, in the mountains back of San Diego, prior to the actual starting of the corporation plans, or the actual putting into operation of the corporation plans. He left on Sunday morning, and died on the following Thursday.

Q. And that made impossible the carrying out of those plans and this project?

A. At that time; yes, sir.

Q. What was the next idea you had, if any, along the idea of exploiting this iron commercially?

A. After his estate was settled, we expected to start out—his two brothers, Mr. Will Crane and Mr. Albert S. Crane taking his position, and they stood ready to complete the arrangement.

Q. Has anything held up that latest project?

A. The time we were getting things working around into shape, where we were able to start again, Landers, Frary & Clark came on the market with a device identically representing my idea.

Q. And after that you started your suit, and held up [91] your plans, did you?

A. Before I could have have them go ahead, or interest them to go ahead, it was necessary to clear up the question of the rights about the patent.

(Testimony of William D. Wright.)

Q. And what are your plans for the future for this patent, just briefly?

A. The two Mr. Cranes stand ready—I have a contract with them, and they stand ready to go ahead with the plans outlined by their brother.

Q. In what event?

A. In the manufacture and sale of the iron.

Q. In what event?

Mr. BLAKESLEE.—We object to that as entirely immaterial, self-serving declaration, and not probative.

The COURT.—I think so. The objection will be sustained.

Mr. BLAKESLEE.—The whole line.

Mr. L. S. LYON.—I offer in evidence an assignment recorded in the Patent Office from William D. Wright to Quince C. Crane, in accordance with the pleading of the bill of complaint; a second assignment from William D. Wright and Quince C. Crane to Crane & Wright Electric Company, a corporation duly organized, and so forth; and a third assignment from William D. Wright and Ovid E. Marks, as the surviving directors and trustees of a corporation that has lapsed for a failure to pay the corporate license fee under the laws of the State of California,—from the corporation, [92] they acting as the corporation, to William D. Wright. Is there any objection to these papers?

Mr. BLAKESLEE.—I wish to reserve the objection that they are not complete; fragmentary; and the proof is not made out on the face of them as

(Testimony of William D. Wright.)

to any purported transfer of the alleged trustees of this defunct corporation.

Mr. L. S. LYON.—Well, we won't consent to any reservation of any objections. I understood from Mr. Bartlett that they would make any objections they wanted at this time, or else—

Mr. BLAKESLEE.—Well, I am making objections now. It is not complete proof, not a proper method of proof, and they are incomplete and fragmentary.

The COURT.—What is lacking in the proof?

Mr. BLAKESLEE.—I don't think this purported transfer from the trustees of this corporation is properly proven. I don't think they can come and say that two individuals, acting as trustees, conveyed this interest. I don't think that is complete proof. I think there should be further proof to show how they were authorized. And furthermore, the signatures of the alleged grantors are not acknowledged.

Mr. F. S. LYON.—Well, that is true. We can ask the witness in regard to the signatures, but do you want us to take the trouble to go to the corporate books and prove failure to pay the State tax, and so forth?

The COURT.—Is there a certificate of the Secretary of [93] State showing the dissolution?

Mr. F. S. LYON.—There has been no dissolution. The right to do business, and the right to corporate existence was forfeited by failure to pay the annual renewal fees.

(Testimony of William D. Wright.)

The COURT.—Have you a certificate to that effect?

Mr. F. S. LYON.—I have no certificate to that effect, but we will prove it by the witness, who was one of the Board of Directors.

Mr. BLAKESLEE.—We do not wish to be cap-tious, your Honor, but our position, of course, is, if title is not made out, and plaintiff should pre-vail, there might be a recovery by the wrong plain-tiff, and we would have to go through the whole procedure again with the right one.

The COURT.—I don't think your objection is well taken, because what they have offered is part of the proof, whether it is complete or not.

Mr. BLAKESLEE.—It seems to me there should be proof of the defunct condition of the corpora-tion.

The COURT.—That might be so, but this proof here is relevant to that issue. I will overrule the objection.

Mr. BLAKESLEE.—Exception.

Mr. L. S. LYON.—We offer in evidence, then, the duly acknowledged and recorded assignment from Wright to Quince C. Crane, as Plaintiff's Exhibit—

The CLERK.—Plaintiff's Exhibit No. 9.

(The document so offered and received in evi-dence was [94] marked Plaintiff's Exhibit No. 9.)

Mr. L. S. LYON.—And we offer in evidence—

The COURT.—I don't understand why you do

(Testimony of William D. Wright.)

that. This patent was issued to Wright, wasn't it?

Mr. L. S. LYON.—We have pleaded in the bill of complaint that after it was issued it was assigned.

The COURT.—What did you do that for?

Mr. L. S. LYON.—Because we wanted to show the real title. Of course, we could have stood on our *prima facie* title, but we felt we should show the actual chain of title.

The COURT.—Well, proceed.

Mr. L. S. LYON.—And we offer in evidence the acknowledged and recorded assignment from Wright and Quince C. Crane to the Crane & Wright Electric Company, a corporation.

The CLERK.—Plaintiff's Exhibit No. 10.

(The document so offered and received in evidence was marked Plaintiff's Exhibit No. 10.)

Q. (By Mr. L. S. LYON.) Mr. Wright, who were the—

Mr. BLAKESLEE.—I wish to bring that under the same objections, please.

The COURT.—The objections will be overruled.

Mr. BLAKESLEE.—Exception.

Q. (By Mr. L. S. LYON.) I show you a paper entitled, "Assignment." Have you ever seen that before (showing paper to witness)?

A. Yes, sir. [95]

Q. And is that your signature on the paper?

A. Yes, sir.

Q. And do you recognize the other signature?

A. Yes, sir.

Q. Can you identify that? A. Yes, sir.

(Testimony of William D. Wright.)

Q. Whose signature is that?

A. That is Mr. Ovid E. Marks, the third director of our corporation.

Q. Who was the other director?

A. Mr. Quince Crane, deceased.

Q. And were you and Mr. Crane and Mr. Wright—I mean, yourself and Mr. Crane and Mr. Marks, the sole directors of this corporation during its existence? A. Yes, sir.

Q. And what became of that corporation?

A. Owing to the estate of Quince C. Crane not paying the corporation tax, the corporation became extinct.

Q. And you and Mr. Marks, as the surviving directors of that corporation, made this assignment?

A. Yes, sir.

Mr. BLAKESLEE.—We object to that as not a proper method of proof, and calling for a conclusion of law by the witness.

The COURT.—Why?

Mr. BLAKESLEE.—I don't think the witness is competent to [96] testify that because of the defunct condition of that corporation, as trustees they did so-and-so. It seems to me that is stating a conclusion.

The COURT.—I think that is a statement of a conclusion. You and the other trustees signed that? A. Yes, sir.

Mr. BLAKESLEE.—I think that is as far as the inquiry—

The COURT.—And this assignment, this docu-

(Testimony of William D. Wright.)

ment, runs to you? A. Yes, sir.

The COURT.—That raises a question as to whether a man who is a trustee can make an assignment of a document to himself.

Q. (By Mr. L. S. LYON.) What was the purpose of this assignment, Mr. Wright?

Mr. BLAKESLEE.—I object to that.

The COURT.—The assignment will show for itself.

Mr. L. S. LYON.—Well, you bring up the question that a trustee cannot assign to himself. He can, under certain circumstances, where the corporation was holding a patent, as long as it operated in conformity with the contract; and when Mr. Quince Crane died, and the corporation was ready to lapse, under the agreement the corporation returned the patent to Mr. Wright.

The COURT.—Is that agreement put in evidence?

Mr. L. S. LYON.—The agreement states they will do it. [97]

The COURT.—Have you filed this document signed by those people?

Mr. L. S. LYON.—We offer in evidence the assignment.

The COURT.—Well, that will go in evidence, but whether good or bad, I don't know.

Mr. BLAKESLEE.—We object, on the ground no foundation is laid, and not a proper method of proof.

The COURT.—I will overrule the objection.

(Testimony of William D. Wright.)

Mr. L. S. LYON.—We offer in evidence the assignment from Wright and Marks to William D. Wright, as Plaintiff's Exhibit—

The CLERK.—Plaintiff's Exhibit No. 11.

Mr. BLAKESLEE.—We wish to reserve, please, the further objection that the witness is not competent to identify the paper.

The COURT.—All right. Objection overruled.

Mr. BLAKESLEE.—Exception.

(The document so offered and received in evidence was marked Plaintiff's Exhibit No. 11.)

Q. (By Mr. L. S. LYON.) Mr. Wright, was there anybody else financially interested in the company at the time of this transfer? A. No, sir.

Q. Besides yourself and Mr. Marks?

A. No, sir.

Q. You had purchased all of the stock owned by anybody [98] else, by Quince Crane, or all his rights in the company, have you not?

A. Yes, sir.

The COURT.—I am not familiar with the law that authorizes trustees—unless there is some declaration of forfeiture by the Secretary of State, I did not suppose the directors became trustees, unless there was some declaration of forfeiture.

Mr. F. S. LYON.—We will present that statute later, your Honor.

The COURT.—All right.

Mr. F. S. LYON.—I am well satisfied myself that the statute provides that if the tax is not paid,

(Testimony of William D. Wright.)

the corporation may do nothing except to wind up its business. I will look it up, though.

Mr. L. S. LYON.—Referring to Plaintiff's Exhibit No. 2, the defendant's device, will you point out to the Court, in such a device, the pair of casings pivotally connected together?

Mr. BLAKESLEE.—Now, is that the defendant's structure?

The COURT.—Yes.

Mr. BLAKESLEE.—We object, on the ground that this is mere idle procedure; that the witness is not needed to apply the claims of the patent to the device; and that it really is an attempt to usurp the function of the Court, and calls for an opinion on the part of the witness. He [99] is obviously taking fragments of the claims and having the witness paste them on parts of the device.

The COURT.—Will you read the question?

(Question read.)

The COURT.—I overrule the objection.

Mr. BLAKESLEE.—Exception.

A. This is the pair of casings pivotally connected together (indicating).

Q. (By Mr. L. S. LYON.) And what is the object in a waffle-iron of that character of pivotally connecting the casings together, Mr. Wright?

A. So that in the rotation of the leaf, the opposite members form a box-shaped arrangement, that will take pastry in what we call a waffle.

Q. In other words, to bring the top member in a proper superimposed relation on the bottom at

(Testimony of William D. Wright.)

such time as the waffle is being baked, to permit its being turned at such time as you want to fill or remove the waffle; is that correct? A. Yes, sir.

Q. And this defendant's device is so constructed that it performs that function, is that correct?

A. Yes, sir.

Mr. BLAKESLEE.—We object further, that this is an attempt to put the patentee on the stand and apply his own patent to the defendant's device, and I don't think it is [100] a proper method of proof. I think if the claims mean anything, they should be capable of application to our alleged infringement. I cannot see where the say-so of the patentee can be probative in any respect. It is against the rules of evidence as to experts. I presume now he is acting as an expert,

The COURT.—Well, I suppose he is acting as an expert. That is the only way the evidence should be got in. I would just as soon have Mr. Lyon's statement as his witness' about it, as far as that is concerned.

Mr. BLAKESLEE.—I think counsel should make those statements, and not the witness. It is against the procedure with experts, and Courts are against allowing witnesses to state fragments of claims and apply them.

The COURT.—Objection overruled.

Mr. BLAKESLEE.—Exception.

Mr. L. S. LYON.—If you are not going to use any expert testimony of that kind, we are willing not to.

(Testimony of William D. Wright.)

Mr. BLAKESLEE.—We are not going to use any expert testimony.

Mr. F. S. LYON.—No expert testimony in the case?

Mr. BLAKESLEE.—We will probably have a witness testify to certain structures here in the prior art, but we are not going to have the presumption to have an expert tell the Court what our device is with relation to the claims of the patent.
[101]

Mr. L. S. LYON.—We were simply bringing out on this particular device that it performs a certain function.

The COURT.—Well, proceed.

Q. (By Mr. L. S. LYON.) Will you describe to the Court what was in those casings, Mr. Wright?

The COURT.—In these?

Mr. L. S. LYON.—Yes.

The COURT.—Haven't you done that?

Mr. L. S. LYON.—I am not sure that that is evidence which we can quote.

The COURT.—All right; proceed.

A. The casing contains an electrical element and nonconducting element, with an aluminum waffle casing adjacent to the casing; the edge of the waffle member is flanged over the edge of the casing.

Q. (By Mr. L. S. LYON.) Where is the non-conducting element?

Mr. BLAKESLEE.—May our objection, your Honor, stand to this whole line?

(Testimony of William D. Wright.)

The COURT.—All right.

Mr. BLAKESLEE.—And furthermore, we wish to add the objection, for the purpose of the record, that the oral testimony of the witness is not the best evidence. The best evidence is the thing itself which he is describing.

The COURT.—Well, I think undoubtedly the best evidence is the thing itself. I have got eyes, and can see the thing. [102]

Q. (By Mr. L. S. LYON.) Well, will you describe what is the purpose or the function performed by the flange, the aluminum flange, on the baking members of that exhibit, Mr. Wright?

Mr. BLAKESLEE.—The same objection.

The COURT.—Overruled.

Mr. BLAKESLEE.—Exception.

The COURT.—Proceed.

A. It has three missions in being constructed in that form. One is that the continual opening and closing of the device, if it was simply supported by screws, would cause the entire waffle member to drop into the casing by the vibration loosening the screws and stripping the threads off the screws. It also prohibits the pastry from running out of the side and coming in contact easily with the metal surface that the pastry would adhere to. By the pastry adhering to the metal surface, it would make it difficult to remove the pastry from the iron. It also has a third purpose, of keeping the pastry and the oils of the pastry from running down into

(Testimony of William D. Wright.)

the element inside and arcing or shorting the element.

Q. (By Mr. L. S. LYON.) That is, between the waffle member and the casing? A. Yes, sir.

Q. What is the object in making the waffle baking surfaces of aluminum, rather than of some other metal, Mr. [103] Wright?

A. It has two advantages. One is the quick transmission of heat from the source of origin to the pastry that is being developed; and the second is the peculiar affinity between the aluminum and pastries, that, at a proper temperature, pastries will not stick or adhere to the aluminum casting.

Mr. BLAKESLEE.—We move to strike out the answer on the further ground the witness is not qualified to talk about the affinities and properties of these various matters. He has not been qualified as an expert. He is apparently a salesman in some concern, and I don't think he can testify as an expert on these matters.

The COURT.—Well, he made this thing, and I think he is an expert for that reason. Is that part of the combination, the aluminum a part of the combination?

Mr. L. S. LYON.—Yes. For instance, Claim 6 speaks of baking surfaces made of aluminum, and that the flange extended over is made of aluminum.

The COURT.—All right.

Mr. L. S. LYON.—I think that is all. You may cross-examine. [104]

(Testimony of William D. Wright.)

Cross-examination by Mr. BLAKESLEE.

Q. For how long a period of time, Mr. Wright, did you do nothing with this waffle-iron device that you have told about?

A. Which particular device do you mean?

Q. Well, this one,—any of these that you say you concocted and showed to your patent attorney?

Mr. F. S. LYON.—We object to that as assuming a fact not testified to by the witness, and as not appearing in the record, that there was any period of time that he did nothing with any of them.

The COURT.—Well, he can say so. Overruled.

Mr. BLAKESLEE.—It is cross-examination.

A. There has been no time that I have not been active in trying to start this project of manufacture and sale of the iron to the public.

Q. Did you make any in 1917? A. Yes, sir.

Q. How many?

A. Because of the arrangement I had with—

The COURT.—He asked you how many. Now, answer that, and you can go to something else.

A. I have made two.

Q. Sir?

A. I have made two, that I can recall just at the present time.

Q. (By Mr. BLAKESLEE.) Wasn't there a demand in San Diego [105] for heating devices at that time? A. Yes, sir.

A. Yes, sir.

Q. They were quite extensively used, weren't

(Testimony of William D. Wright.)

they, for heating curling-irons and electric plates for—

Mr. F. S. LYON.—We object to that as immaterial, and we will admit there was a demand for electric waffle-irons at that time, if you want to.

Mr. BLAKESLEE.—That is enough. Will you admit that as to 1918?

Mr. F. S. LYON.—Yes, there always has been, before Mr. Wright's invention, and since then.

Mr. L. S. LYON.—Will you make the same admission, Mr. Blakeslee?

The COURT.—Proceed.

Q. (By Mr. BLAKESLEE.) How many of those did you make, if any, in 1919?

A. I have not made any.

Q. Did you make any this last year, 1920?

A. No, sir.

Q. You say that those you did make and give to people to use, did actual waffle cooking, did they?

A. Yes, sir.

Q. Did you have any inquiries for any of them?

A. Yes, sir.

Q. Now, don't you know that as soon as batter strikes a hot waffle-iron surface, it almost immediately consolidates [106] or stops flowing and commences to cook?

A. No, sir; it does not.

Q. You are quite sure of that? A. Absolutely.

Q. How much waffle cooking have you done?

A. Considerable, since 1915.

(Testimony of William D. Wright.)

Q. Have you used one of your waffle-irons right along since then? A. Yes, sir.

Q. What years?

A. Continually since November, 1915.

Q. Referring to your patent, the patent in suit, and to Figure 1 of that patent, there seems to be indicated certain wiring extending from the switch oil—have you a copy of that patent?

A. I have not.

Mr. F. S. LYON.—We will object on the ground it is not cross-examination. The witness has not been examined in regard to anything contained in the patent itself.

Mr. BLAKESLEE.—The witness was examined, over our objection, as to certain features of this patent.

The COURT.—The objection will be overruled.

Mr. BLAKESLEE.—Read the question as far as it is completed, please.

(Question read.)

Mr. BLAKESLEE.—(Continuing.)—up to the member b? [107] A. Yes, sir.

Q. Did you devise that wiring? A. I did.

Q. When?

A. I believe it was in November, 1915.

Q. Is that same wiring present in the exhibit here, Plaintiff's Exhibit No. 5?

A. The same wiring if there, attached in a little different form.

Q. You do not have the wiring extend up to and through the pivotal point of the member b, do you?

(Testimony of William D. Wright.)

A. Not in this iron here.

Mr. BLAKESLEE.—That is all.

Mr. L. S. LYON.—That is all, Mr. Wright. Mrs. Crane, will you take the stand, please? [108]

Testimony of Mrs. William A. Crane, for Plaintiff.

MRS. WILLIAM A. CRANE, called as a witness on behalf of the plaintiff, being first duly sworn, testified as follows:

The CLERK.—What are your initials, Mrs. Crane, please?

A. Mrs. William A. Crane.

Direct Examination by Mr. L. S. LYON.

Q. You live in San Diego, Mrs. Crane?

A. Yes, sir.

Q. And are acquainted with Mr. William D. Wright, the plaintiff in this case?

A. Yes.

Q. Have you ever seen this exhibit, Plaintiff's Exhibit No. 3, before? A. Yes.

Q. About when was the first time you saw it?

A. I used it in December, 1915.

Mr. BLAKESLEE.—We object to this as leading, and not a proper method of proof, handing the witness something.

The COURT.—Objection overruled.

Mr. BLAKESLEE.—Exception.

Q. (By Mr. L. S. LYON.) For what purpose did you use it?

A. For baking waffles for guests.

Q. How long did you use it, Mrs. Crane?

(Testimony of Mrs. William A. Crane.)

A. Why, I used it,—oh, any number of times, on and off, indefinitely; but I much preferred the smaller irons. [109]

Q. Did this device, Exhibit 3, cook the waffles satisfactorily? A. Very, very satisfactory.

Q. I show you Plaintiff's Exhibit No. 8. Have you ever seen that before?

A. I have.

Mr. BLAKESLEE.—We object to this, if your Honor please, to this whole line, as irrelevant and immaterial, and does not tend to prove or disprove any issue in the case.

The COURT.—What is the purpose of the evidence?

Mr. L. S. LYON.—I want to prove the devices will work, your Honor, satisfactorily.

The COURT.—The objection will be overruled.

Mr. BLAKESLEE.—Exception.

Mr. L. S. LYON.—Will you read the question to the witness, please, Mr. Reporter?

(Question read.)

A. Yes.

Q. When, and under what circumstances?

A. I used it in my own home, with the exception of possibly a couple of weeks at a time when Mr. Wright has had it, since January, 1916.

Q. And it was taken from your home to bring up here as an exhibit? A. Yes, sir.

Q. And for what purpose did you use it? [110]

A. I used it for baking waffles.

Q. And was it satisfactory? A. Very.

(Testimony of Mrs. William A. Crane.)

Q. About how often did you bake waffles on it during that time?

A. Well, we used it on an average of every—oh, I don't know—two or three times a week, sometimes, and then we would rather tire of them, and perhaps a week, or two or three weeks, would not use it; and then I would use it every day; and it has been in use on and off practically continuously.

Mr. L. S. LYON.—That is all.

Mr. BLAKESLEE.—No questions.

Mr. L. S. LYON.—I hand to the Court a draft of the claims that was requested this morning, an outline of them by elements, and a copy to counsel. Plaintiff rests.

(Whereupon plaintiff rested his case.)

Mr. BARTLETT.—Shall we proceed, your Honor?

The COURT.—Yes, sir.

Mr. BARTLETT.—First, we have three exhibits that have already been considered as in, but were not in form introduced in the depositions. I have spoken to counsel on the other side, and they make no objections.

Mr. L. S. LYON.—Which exhibits are they, Mr. Bartlett? [111]

Mr. BARTLETT.—The first is the Capek illustrative model.

Mr. L. S. LYON.—That is all right.

Mr. BARTLETT.—Defendant's Exhibit No. 17, which was put in evidence and marked for identification. I now offer it as an exhibit, Defendant's Exhibit No. 17, the Capek illustrative model.

Mr. F. S. LYON.—I notice, your Honor, that the witness whose deposition was taken *de bene esse* on notice given to us,—and we were taken to Connecticut to take the deposition,—is in the courtroom. Now, I arise at this point to state that we must understand whether the witness is to testify, or they are going to proceed in accordance with our agreement to use his evidence as given in the deposition. If he is to testify, we will object to the deposition, and all of the exhibits in the deposition, and allow them to prove their case by *viva voce* testimony in open court. If, however, they wish to take the record of the depositions, the exhibits that counsel is now speaking of, of course, are under that stipulation, and part of that deposition. But the deposition is not usable with the witness here, and counsel may have his choice between using the witness or his deposition, as he wishes. We want, before there is any of the deposition used, counsel to state that he accepts the deposition, or intends to stand on the testimony of the witness. Now, there is a reason for that,—so that counsel may not be [112] under any misapprehension. We have stipulated that certain things are so, and in accordance with the testimony of the witness in the deposition. Now, those stipulations apply to the testimony as then given in that deposition. They do not apply to any testimony that this witness shall give here, and counsel may have his choice, except that we demand he make his choice now, the witness being here.

Mr. BARTLETT.—If your Honor please, we may make that election when we come to a question of whether or not we will put the witness on. At this moment it was merely marking as a complete exhibit an exhibit that was introduced and marked for identification.

Mr. F. S. LYON.—Well, there isn't any deposition before us until the situation, your Honor, is one way or the other. In other words, we are objecting to the use of the deposition entirely, on the ground the witness is in the courtroom. Now, if counsel want to accept our stipulation, we are willing to take it.

The COURT.—They are not offering the deposition; they are offering the exhibit here.

Mr. F. S. LYON.—Well, we object to the exhibit, on the ground it is incompetent, irrelevant and immaterial; no foundation laid.

Mr. BLAKESLEE.—If your Honor please, the witness is an officer—not an officer of the defendant, but we have not said we will put him on. [113]

Mr. BARTLETT.—I cannot imagine what this all is about, but I am perfectly willing to state that Mr. Lamb is here as vice-president of the corporation and to be present and show his interest in the case and assist us in any way that might be necessary to have assistance. He was not brought on here to testify or to vary his deposition. As a matter of inadvertence, when the deposition was taken, the model which was testified about and cross-examined about was marked for identification, and then the attorney who took it forgot to offer it as

a complete exhibit. Now I simply offer it as a complete exhibit.

Mr. F. S. LYON.—My only objection, your Honor, is this: I would like counsel to state whether they intend to use Mr. Lamb as a witness in this case, or whether they do not, for the simple reason this is unusual. We were hauled clear across this continent to take Mr. Lamb's deposition. Now, his deposition is here, and this exhibit in question is a part of that deposition. I am willing to fix the deposition as counsel says was agreed to, if they are going to use it, but there is nothing before the Court except counsel's own statement.

The COURT.—Well, we are wasting time here, it seems to me. What is it you are offering now, and I will rule on it.

Mr. BARTLETT.—This device which was offered and testified to and cross-examined about during the taking of [114] the depositions.

The COURT.—Well, how can I tell anything about the cross-examination or the testimony without it being offered in evidence? You can offer that in evidence. If it has got any bearing on the case, it will be in.

Mr. BARTLETT.—I offer it in evidence now, or later.

Mr. F. S. LYON.—Well, the offer is made now?

Mr. BARTLETT.—Well, suppose we withdraw that offer for a moment.

The COURT.—Well, proceed then.

Mr. BARTLETT.—Have you any objection to putting in a copy of the Capek patent?

Mr. F. S. LYON.—No.

Mr. BARTLETT.—Counsel for defendant offers in evidence as Defendant's Exhibit No. 22, copy of patent to Capek, No. 493422, dated March 14, 1893, and the same is marked Defendant's Exhibit No. 22, Capek patent.

(The document so offered and received in evidence was marked Defendant's Exhibit No. 22.)

Mr. BARTLETT.—Now, Mr. Lyon, I have a certified copy of the file wrapper and contents.

The COURT.—You don't want those exhibits to have new numbers, do you?

Mr. BARTLETT.—Now, this is the number that follows right along, No. 22.

The COURT.—All right; give it No. 22, then. The Clerk [115] seemed to be worried about it.

Mr. BARTLETT.—Counsel for defendant offers in evidence a certified copy of the file-wrapper and contents of the Wright patent in suit, and the same is marked Defendant's Exhibit No. 23, Wright file-wrapper and contents.

(The document so offered and received in evidence was marked Defendant's Exhibit No. 23.)

Mr. BARTLETT.—Now, if your Honor please, there were three depositions taken with reference to this waffle-iron known as the Simplex electrical waffle-iron, and one deposition taken as to the general art in manufacture by the defendant prior to any date of invention claimed by Mr. Wright. If it is your pleasure, I will either read those or state

the substance. I am not acquainted with the practice.

The COURT.—Both methods have been followed here. I think stating the contents of it is the better way.

Mr. F. S. LYON.—You propose to read the deposition of Mr. Lamb?

Mr. BARTLETT.—Yes.

Mr. F. S. LYON.—We object, on the ground Mr. Lamb is present in the courtroom, and the deposition and all proceedings during the taking of the deposition are incompetent. Now, I make my offer to withdraw that objection if counsel is not going to use Mr. Lamb as a witness orally. [116]

Mr. BARTLETT.—Counsel states that he has no expectation of using Mr. Lamb as a witness. There was one question about the construction of this device, which seems now to be cleared up by the production of it itself. We do not care to use him, and therefore I say we are not going to use Mr. Lamb.

The COURT.—Then proceed and state what the depositions show.

Mr. BARTLETT.—I now proceed to offer this illustrative model, do I?

Mr. F. S. LYON.—Yes.

Mr. BARTLETT.—Counsel for defendant offers in evidence Defendant's Exhibit No. 17, illustrative model of Capek device, consisting of three pieces, all tagged with the same number.

Mr. L. S. LYON.—You offer that in place of

where it was offered in the deposition, merely for identification; is that correct?

Mr. BARTLETT.—Yes.

Mr. L. S. LYON.—No objection. In place of its being offered for identification, it stands as offered in evidence.

Mr. BARTLETT.—Yes.

Mr. L. S. LYON.—At the same point in the deposition.

Mr. BARTLETT.—All right. [117]

(DEPOSITION OF JOSEPH F. LAMB.)

Mr. BARTLETT.—Now first, the deposition of Mr. Joseph F. Lamb. He is Vice-president of Landers, Frary & Clark, the real defendant, New Britain, Connecticut. That concern is engaged in the manufacture of meat choppers, food choppers, electric heating appliances, such as percolators, chafing-dishes, coffee-pots, stoves, waffle-irons, curling-irons, grills, shaving mugs, toasters, cutlery, weighing scales, breadmakers, cakemakers, vacuum bottles, pocket-knives, and table cutlery. That concern has been engaged in making electrical heating appliances since 1912, the development beginning in November, 1911.

The first type of apparatus was an electric percolator, and within six months they had, in addition to the percolator, a chafing-dish, a disc stove, sad-iron, and teapots. The other articles followed immediately after. They have been marketed over a wide territory, including the entire United States, Canada, Europe, and Australia. Starting with the percolator, they made the electrical part of the de-

vice so that the lower section is the base, and the upper section is the body. The unit is attached to the body, and the base encloses the unit.

Now, if you will permit me, logically, I will just pass to another article, and come back to these.

The COURT.—I presume you better call attention—you are following him, Mr. Lyon? [118]

Mr. L. S. LYON.—I am following,—I am trying to follow.

Mr. BARTLETT.—Over, now, Mr. Lyon, on page 10, referring to the disc stove.

“Q. What was the next electrical article you made”—this was all in 1912.

“A. Disc stove.

“Q. Please briefly outline the steps which you followed in the production of the disc stoves.

“A. In the development of the disc stove we made the plate or disc for cooking on, and then the unit was attached to the under side of the disc, and then the plate screwed to the disc, and then a drawn metal shell was fastened to the disc by three screws, enclosing the unit in such a manner that the flange of the stove overlapped the shell that enclosed the unit on the under side.

“Q. And how was the disc supported in this first stove, or cooking surface supported?

“A. On the edge of the sheet metal shell.

“Q. Did this stove work all right?

“A. Yes.

“Q. And when was the first one made?

“A. It was made in the week of June 23–29th, 1912.”

Now, may I pause just a moment to show your Honor this thing?

The COURT.—Now, what exhibit is this?

Mr. BARTLETT.—This is Exhibit No. 8, defendants’ disc stove, that I just read you the construction of. Rather than tear that one apart, I have this one as an illustrative model. You will remember I just read you his answer. Here is the cooking or heated surface, in this case plain, to cook a grid-dle cake on, instead of waffled for waffles. (Indicating.)

The COURT.—Go ahead. [119]

Mr. BARTLETT.—In there is that unit, similar to this one in the waffle-iron, two sheets of mica, with between them the electrical wire to be heated, and then there is the clamping plate, which clamps the unit to the back of the heated or cooking surface. And then, as a screen, and also, if you please, as a support, this sheet metal casing was applied there (indicating). That left the overhanging flange to protect the edge of the interior from any dripping or anything, and also to be supported by the upper edge of the sheet metal casing. And then legs were put on the bottom of the casing, as a support to the entire device, with a handle. That will be spoken of frequently, probably, through the case, as defendant’s disc stove. I took it a little out of order because—pardon me—I spoke of it a little out of order, because it seemed to me so typical of the

entire line of defendant's manufacture, as you will presently see developed by this deposition and the exhibits put therein. It had the heated or cooking surface, to be sure, specifically plain, but to waffle it, of course, was nothing. And then to the bottom of that was suspended the electrical unit with the clamping plate. And then over that, or under it, to shield it and protect it, was the casing, a sheet metal box, circular, to be sure, in form, but our patent in suit says that shape is of no consequence, that it may be of any shape. [120]

The COURT.—The word “suspended” is interesting.

Mr. BARTLETT.—Well, the reason I used that word was to try to, in one word, differentiate from the idea of using a box as a box or container into which these parts were laid or mounted or contained. That is built up from a foundation, built from a foundation up. Rather, that is, to use that word again, suspended from the top down. As you see when you take that plate off, or the waffle plate, they hang suspended there; they do not rest on the bottom of the casing, or depend on the casing. As my colleague suggests, in the patent in suit the casing becomes a part of the electrical unit itself. They depend on that to keep them together. So there is the disc stove.

Now, to return, Mr. Lyon, to where I was, on page 8; he was testifying about the percolator. Your Honor knows the percolator. We did not put in a whole percolator, but such a thing in general as that (indicating), and we introduced this Exhibit

No. 4 to show how that general type of construction was followed out also here. This is cut away, of course, to show. This is the bottom of the percolator, into which the water is that is heated, that spurts up through the tube, and down, in the familiar manner of making coffee in this way (indicating). Now, to the bottom of this, which is the heated or cooking surface, is attached, or, if you please, suspended, the electrical unit, with its clamping plate. Here is the plate, and there [121] are the screws. In between there is this mica wire and mica, and this rests on and is supported by this base here, which again is a screen or cover to, first, shield or screen these working parts, and, second, to support on its edges the heated or cooking surface, namely, the percolator (indicating). The significance of that, likewise, you see it is all but one development, starting from the first in 1912 or 1911, the last part. How, he says:

“Q. Is the base a casting or sheet metal?

‘A. Sheet metal.

“Q. And is the bottom of this base closed in?

“A. It is.

“Q. How did it conserve heat?

“A. By making a dead air space, which is one of the best nonconductors of heat that there is.

“Q. Now, what was the next electrical utensil you developed, and put out, after the percolator?

“A. The chafing dish.”

Now, the chafing-dish is here, and here. Now, I need not perhaps bring those to your Honor. You are familiar with the chafing-dish in general. That is an entire one. These are exhibits put in to illustrate to your Honor more clearly the construction. Here again, although differing in shape, of course, is the same general idea; the heated or cooking surface here, which now is not flat, but is bowl-shaped, dish-shaped; and to that bottom, attached or suspended, a clamping plate, holding between it the electric unit, namely, the two sheets of mica and the wire between; and then that is superimposed on the sheet metal base, the edges of the heated or cooking [122] surface extending over the upturned edges of the base, resting on it, and preventing anything running down from the cooking surface into it. This exhibit is of the same thing, but is cut away to show precisely how that is done, and you see there again the bottom of the heated or cooking surface, the attached unit, and the base with its upturned edge and the overhanging flange of the heated or cooking surface (indicating).

The witness then identified these parts and produced them, and they were introduced, the section and the completed thing.

The next article was what was known as the sad-iron or flat-iron. That one I need not take time at this moment to proceed with, except to show that that is electrically heated, as the witness testifies, and that unit is attached in the same way, and that casing is put over in the same way.

And then came the disc stove, which I have al-

ready explained. I ought perhaps also to add to that what appears in the deposition, that after they made this first form, which I showed you, they brought out this form (indicating), which is not different mechanically, but is slightly different in appearance. The reason is explained. This casing here, being a single sheet metal casing, and this, what they call the wattage, in here, being high, it got so hot it discolored this, and therefore after people used that, they [123] did not like to have the discoloration. So Mr. Lamb says he took that same thing as it is, and simply added this ornamental casing around here, with the dead air space between, and then the heat that was here would not pass out hot enough to this outer casing to discolor it, and it always remained in that bright and attractive shape. But I think it is perfectly clear that this is still electrically and operatively the same as this, this addition here being purely for the purposes which I have stated.

Mr. F. S. LYON.—The only substantial change, then, was the dead air, nonconducting space around the outside; is that it?

Mr. BARTLETT.—Yes, and the polished metal shell. May I look at that? Is that Exhibit No. 9? Yes, Exhibit No. 9. It is rather interesting, this question and answer. If you will pardon me, I will read it.

“Q. In this Exhibit 9 I see a section has been cut from it. Please look at the cut surface of this stove, Exhibit 9, and state what the parts are which are to be seen?

“A. The upper part is the disc or cooking member. To the under side of this is attached the unit, which is held up against the disc by the pressure plate.”

The COURT.—By the what?

Mr. BARTLETT.—The pressure plate. I called it the clamping plate. It is that plate which is screwed up against it. We can carry it best in our minds, perhaps, if we remember this one (indicating). [124]

The COURT.—What interested me was this, and this seems to be solid there (indicating).

Mr. BARTLETT.—Well, that is merely a support. You see, there is the unit; the plate is there (indicating.)

The COURT.—The streak in between?

Mr. BARTLETT.—The streak in between is the electric unit; the clamping plate is down below.

The COURT.—I see.

Mr. BARTLETT.—Just like this one—no, your Honor will pardon me—precisely like this (indicating). You see, here is the plate, and you see these streaks in there (indicating).

The COURT.—Yes.

Mr. BARTLETT.—So there it is sawed through, in that pie-shaped form, you see, and it brings it to a point. I merely read the answer because it seemed so clearly descriptive.

“The cooking surface, or disc, is supported by a drawn sheet metal shell, being supported on the edge of the sheet metal shell. Enclosing all is a nickel sheet metal shell, supported on

the under side of the supporting shell for the disc, out of contact with the cooking surface.’’

Now, your Honor’s mind may have suggested, why here they haven’t but one shell around that waffle unit; why doesn’t that discolor? Well, the difference is that in a single-disc stove all the wattage goes into the one unit, and you get very high heat, whereas in a [125] waffle-iron the one heat is distributed between two plates, so that you only get about half the heat in each plate, and that half heat is not enough to discolor the metal shell, and therefore they do not have to have an extra metal shell.

Now, the next was rather an interesting device, known as the tourist’s iron. I am just about through. As I feel I may be taxing your Honor’s patience, we will presently end. It interested me because it was so unique. This is known as the Tourist’s Iron, because it is primarily a flat-iron or a sad-iron. The handle is there. You connect here with your electric wire, and use it to iron. The ladies, or what-not, traveling, have one of those in the room, and they iron out light goods. And there is the holder for it. By the same token, some of these—you may have a child along, and want to heat some milk or other matters, and so they arranged so that this stand has these two holes, and they take those two pins in here, and then that is inverted and based on there, this being cut away to allow the wiring to come in, and you use it as a little cooking surface, and set a little pot of milk or water or anything on there that wants to be

heated (illustrating). In the old days there were some other things put on to be heated. Now, when we use it that way, then we have a repetition of all this line here, to wit, the heated or cooking surface, to the bottom of which is [126] attached or suspended the electric unit by a clamping plate, underneath which is a metal shell, supporting on its edges the heated or cooking surface, and the heated or cooking surface having a flange edge extending over the edge of the casing to protect it and be supported by it. So the little Tourist's Iron becomes, in effect, another one of the cooking or heated utensils, all embodying this same general principle of construction, and all long prior to the Wright patent in suit, or any date testified to here. Now, I need not read his description of that, because I think I have fairly figured it.

Then there is this statement:

“Witness in testifying as to dates of manufacture and sale of the electrical utensils hereinabove inquired about, has produced certain original books of Landers, Frary & Clark, which have been examined by the plaintiff's counsel, and it is stipulated and agreed by and between counsel for the respective parties that the dates of manufacture and sale, and the fact of manufacture and sale of the goods testified about, in substantial quantities, are as testified to by the witness. The books produced by the witness were the order, stock and shipment records of electrical utensils for the year 1912; record book of the printing department for

labels and catalogs for the period of April 9, 1912, to November 11, 1912. It is further stipulated and agreed that there has been a general circulation of catalogs and display cards and advertisements containing illustrations and electrical utensils hereinabove testified about by this witness, during the period from April to November, 1912."

There then were introduced a series of five patents, granted to Mr. Lamb, to which I may direct your hasty attention at this time, merely to save reading large portions of the deposition. They are not particularly important, [127] but they are documentary evidence.

Now, there is the percolator to which he testified, in that patent (indicating). You see, there is the heated or cooking surface, in which the water is, and here is the electric unit and clamping plate, with the screws passing up from the bottom to this. Here is this plate, with its edge coming here to support this part here (indicating), and the screen enclosing the working part. That same one shows the application of the same idea to the chafing-dish. That is the patent of 1913. Is it light enough for you to catch the electric unit in there, the little streak?

The COURT.—Yes.

Mr. BARTLETT.—Shall I proceed, your Honor?

The COURT.—Yes, sir. I was just trying to see how that connection was made.

Mr. BARTLETT.—You mean, how it is fastened to the bottom?

The COURT.—No.

Mr. BARTLETT.—Well, the wires are concealed inside.

The COURT.—In here?

Mr. BARTLETT.—If you see here, they are shown to show it, but as a matter of fact they come out here to an opening in the side, and then they have a plug. Have you got one of those plugs, you fellows?

The COURT.—Here is a plug.

Mr. BARTLETT.—Yes, the plug goes in there.
[128]

The COURT.—How is that connection gotten up into this? It comes up in there?

Mr. BARTLETT.—No, it comes right in here (indicating). We did not put the wires in, you see. Excuse me. It is a hard thing to show those terminals.

The COURT.—They are connected right inside there, are they?

Mr. BARTLETT.—Yes, you can feel it with your finger. If you put your finger in where mine is, you will feel that wire.

The COURT.—Yes.

Mr. BARTLETT.—They come to that hole, and then the plug connects. I don't know that I need take the time on that patent. It speaks for itself.

This shows the sad-iron. This is Defendant's Exhibit No. 13.

The COURT.—It shows this iron you have been talking about?

Mr. BARTLETT.—Not the Tourist's Iron. It

shows the sad-iron, but chiefly this disc stove.

The COURT.—All right.

Mr. BARTLETT.—You see, there is shown this fellow here (indicating). That is the top (indicating).

The COURT.—Yes.

Mr. BARTLETT.—And there is the electrical element, with screws passing through this plate, and holding it up [129] against there; and there is the sheet metal base, casing, screen, whatever you want to call it, that covers what I call the working parts, and holds on its edge this heated or cooking surface, with the electric unit attached thereto. In other words, there is the patent demonstrative of the same construction which he testifies to, and that patent is dated April, 1913,—applied for in May, 1912. So that, aside from the admission—pardon me, there is one more patent. That one does not need time to explain, because it is cumulative. I hardly need call attention to further of these patents, except that they all illustrate again, in different forms, that same idea of construction.

“Q. Referring to Defendant’s Exhibit 11, patent No. 1060263, please state whether or not the method of mounting the vessel on the base as illustrated in the drawings, is substantially like what Landers, Frary & Clark has used, and is using to-day? A. It is.”

Mr. L. S. LYON.—Where is that?

Mr. BARTLETT.—That is on page 14, Question 66.

“Q. And is the same true of the arrangement shown in Figure 4 of Exhibit 12?

“A. It is.

“Q. And in the drawings of Exhibit 13, patent No. 1060265”—which is the disc stove patent. A. It is.”

And then he goes on to explain what I have already explained, why the outside shell was added. I need not read that, I think.

“Q. This same arrangement, the flange plate, is used in the Tourist’s Iron, Exhibit 10?

“A. It is. [130]

“Q. As to exhibits 14 and 15, do they show an arrangement for attaching the vessel to the base such as has been and is being used by Landers, Frary & Clark? A. They do.

“Q. Considering now the complete development of the electrical utensil business of Landers, Frary & Clark, will you please say whether or not they have, in any of the cooking utensils which they have manufactured, varied in any substantial respect the method of supporting the cooking surface on the base?

“Objected to as calling for a conclusion of the witness. A. They have not.”

Mr. L. S. LYON.—I would like to have a ruling on that objection, your Honor.

The COURT.—The objection will be overruled.

Mr. L. S. LYON.—Exception.

Mr. BARTLETT.—(Reading:)

“Q. Do you know this from your personal familiarity with the method of construction of

the various cooking utensils of Landers, Frary & Clark?

“(Same objection.)

“A. I do.”

Mr. L. S. LYON.—In that he is asking the question whether or not a whole lot of these are the same, I can't see that that is anything more than a conclusion.

The COURT.—He is giving his opinion as to whether or not there has been any variation.

Mr. L. S. LYON.—I think that is considered improper. He can state what the thing is, and how it works; but whether or not they are the same, I don't think that is anything but a conclusion. It don't seem to me that that is evidence. [131]

The COURT.—The question is, whether they varied in their construction.

Mr. L. S. LYON.—Well, the question is, he takes a lot of these things and lumps them together and says, “Are they all the same, substantially the same?” And the witness says he thinks they are. I don't see what evidence that is.

The COURT.—Well, I will overrule the objection.

Mr. L. S. LYON.—Exception.

Mr. BARTLETT.—(Reading:)

“Q. And, just briefly what is this method of construction?

“A. The cooking utensil is supported on a sheet metal base.

“Q. Will you go into it a little more in detail

and describe what the character of this support is?

“A. The cooking utensil has a unit attached to the under side, and a sheet metal base is then mounted to enclose the unit and to support the cooking utensil.”

Those are facts, you see.

“Q. Then do I understand that the sheet metal base has a surface of one sort or another upon which the cooking utensil rests?

“Objected to as grossly leading, especially as taken in connection with the previous answers of the witness. A. It has.”

I don't care whether it goes in or not. It is a sort of rake-after-cart of the whole thing that goes before. Then there was that complete chafing-dish sale proved as of May 10, 1913. I don't think that is particular to go into further. He was asked about whether some of these things made by Landers, Frary & Clark were made under protection [132] of patents, Exhibits 11 to 15, inclusive, and the answer was that they are. That perhaps was properly objected to as incompetent, as calling for a conclusion of law, although the point of the question was whether they purported to be under patent protection.

Mr. L. S. LYON.—We will withdraw the objection, Mr. Bartlett.

Mr. BARTLETT.—All right; it is not urgent. They are marked with the patent dates.

Then he explains how they cook in these chafing-dishes, sometimes directly over that unit which I

have shown your Honor up there, without a pan. If they want to scramble eggs, or make fudge, or what-not, they put it right in there. But if you want to cook a cereal or Welsh rarebit, or something, they put a little water in there, and then use a little pan over the water, and it won't stick, you know.

The COURT.—Does that furnish the beer for the Welsh rarebit?

Mr. BARTLETT.—The sale of those has dropped right off. I wish I could answer yes, if your Honor will excuse me.

Now, we come to a significant patent that was introduced, and that is the patent to Capek. I am afraid, Mr. Lyon, I will have to use yours, or use that exhibit. You know, no matter how careful, if your Honor please, your office is supposed to be, they will send you away on one of these [133] trips with some screw loose somewhere, and I have not got enough copies of this Capek patent. But with your permission, I will use the one that has been put in as an exhibit. It is unmarked. Now, may I, at your desk, summarize what the deposition says about this?

Mr. F. S. LYON.—I can furnish the Judge with a copy, if you wish.

Mr. BARTLETT.—All right. Thank you very much. I presume they wrote for them to the Patent Office, and did not get them; I don't know.

Now, to start with our understanding of this patent, which is in 1893,—and that is considered among our kind as a very early development of an elec-

trically heated cooking device. Here is his dish, shaped substantially like this, if your Honor pleases, a dish-shaped receptacle into which the article to be cooked is put; and then he has his electric unit,—you see that black line with the wires in it there, looking at Figure 1?

The COURT.—Yes.

Mr. BARTLETT.—And that is attached likewise to the base, attached or suspended to the base, or under side, of the heated or cooking surface. Outside of it all, and with an air space between, he puts a metal casing, marked 26 on the right-hand side there, and that supports the heated or cooking surface at this upper edge; and that edge of that heated or cooking surface is extended over [134] and round the edge of the supporting casing; and then below he has a standard for the support of the entire thing.

Now, he goes at length into these electrical connections and all, because at that date those all had to be worked out. Of course, at this present date they just diagrammatically show them, because everybody knows how they are. And then he shows the various applications of that idea. For instance, instead of having that chafing-dish affair, or bowl-cooking affair, he could put a teapot on top of this unit here, understand me, cut this right through and lay that on it, or he could put a coffee-pot on, or, he says “I can pivotally connect”—if I may use that expression—“I can hinge two of these things together, each one of them provided with an electrically heated unit,” as you see in dotted lines there; and then

he says, "I can cook either open that way, making two several lids to cook on, or by the hinge I can turn the one up over the other and cook in between." So, of course, if we wanted to put a waffled surface here, and a waffled surface there, we would turn that over, and there you have got your waffle-iron. That is a very early example also in the prior art of this device of the leading wire from the source of electrical supply. You see those two cords. They come in as one, and then they are divided, one going over to one, and one over to the other. [135] That halves the current, so it heats both, and does not over-heat either. And then there is that little knob down there, which forms a thing to catch hold of when you pull it over, and also is the leg or support for it when it is pulled over (indicating). Now, that seemed to us very significant, in view of such an old prior art, that, as shape is no part of Mr. Wright's invention, and he so states, that those could just as well be oblong as to be circular, just as Mr. Wright's could just as well be circular as to be oblong. In fact, many waffle-irons are circular.

The COURT.—The rectangular feature has nothing to do with the thing?

Mr. BARTLETT.—Not the slightest.

Mr. L. S. LYON.—It is claimed in 7, 8 and 9 that they are box-shaped. We don't agree to that statement.

Mr. BARTLETT.—They are simply box-shaped, but your patent, Mr. Lyon, states in so many words they can be in any shape desired.

Mr. L. S. LYON.—And then claims one particular shape.

Mr. BARTLETT.—Now, if you are disclosing an invention to the public, this is a part of the notice, “If you make this round, you are just as much on my patent as if you make it oblong.”

Mr. F. S. LYON.—We agree with you on that, round and square. [136]

Mr. BARTLETT.—And by the same token, if you find the round shape is old, then you are just as much ahead of me. There is the prototype, if your Honor pleases, of the entire electrical heated waffle-iron proposition, and hinged plane proposition, there and there (indicating). Now, he does have a peculiar hinge, which is interesting, because he makes it adjustable, so that you can cook thinner or thicker things between the two surfaces when they are closed. If you had a real good, thick Delmonico steak, you would adjust your hinge so as to open it wide enough and stick it in between the two surfaces. If you had a thin slice of bacon, you would also adjust it to that. There is an object in having the peculiar hinge.

Mr. L. S. LYON.—Where do you contend the cooking surface is?

Mr. BARTLETT.—And this also, as I have indicated, divides the wattage between both—I beg pardon, Mr. Lyon.

Mr. L. S. LYON.—I asked where the cooking surface was, that you would put your steak on.

The COURT.—That would be 44, wouldn't it?

Mr. BARTLETT.—Yes, this line right across there (indicating).

Mr. L. S. LYON.—Isn't that the top of the dish? How could you put a steak on that?

Mr. BARTLETT.—No. 44 is the top surface. Look at the [137] flange coming over at the edges. Here is the description—

Mr. L. S. LYON.—Do you contend that that heating element 18 down at the bottom there would cook a steak up on top of that arm?

Mr. BARTLETT.—Yes.

Mr. F. S. LYON.—And with a dead air, nonconducting space in there?

Mr. BARTLETT.—But even if you didn't, there is no invention in cutting that off and making it thinner. Now, to illustrate that in a concrete way, Mr. Lamb made up a model of this Capek device. Of course, I noticed my friend suggested, "Oh, well, you have got your heat too far down." But if you were going to cook something that needed quick heat, and your heat was a little shy, either from no electric current, or small electric current, or anything, of course any manufacturer, without being taught by Mr. Wright or anybody else, would simply cut this off and make them shorter, so that you would have your thing to be cooked closer down. Now, we made this of aluminum. That is Figure 7 of the Capek patent. There is the knob. Now, just to show how it can be done by anybody, if they want to, instead of cutting that down, you see, as he has shown it, applied to the bottom, we take those things out and we put in a disc stove, if you please, or a

waffle-iron, or anything. For instance, we take, of course, for [138] this case, a couple of waffle-irons. Now, you put those in there, and we screw them up—these are not aluminum; they are made to look like aluminum; they are made of wood, and the wood is warped a little there; but I will show the thing just the same.

Mr. L. S. LYON.—You haven't got any heating element, have you?

Mr. BARTLETT.—Certainly, we have our heating element on the bottom of this, the same as yours on that.

Mr. L. S. LYON.—It is not in there now, is it?

Mr. BARTLETT.—Oh, well, we didn't go to the trouble of making up a heating element.

Mr. F. S. LYON.—You never did, did you?

Mr. BARTLETT.—Of course we did not make the Capek device, and do not claim we did. This is to show the prior art disclosed in patents. Now, we put this thing in there, just substitute one for the other, screw them on here, and fold them over, and over they go, just like that (illustrating). Now, my friend says, "you didn't put an electrically heating element on." For the purposes of illustration, we assumed we all used our mental sense. Of course, if you were going to cook on this, you would attach, just as we attach all the others, and as Capek himself attached his,—we would attach the unit there and put it into that base support. That is a metal casing, and here is the edge extending over, and that metal casing [139] supports it.

The COURT.—I don't understand. I think Mr. Lyon's questions are pertinent. This thing was not manufactured?

Mr. BARTLETT.—It was not.

The COURT.—You have got it up simply to illustrate?

Mr. BARTLETT.—Precisely. We have got it up simply to illustrate in this form in which I showed you first, Fig. 7 of the Capek patent, and then to illustrate the transition, we put these waffle irons in instead of these bowls.

Mr. L. S. LYON.—That never was done until after this suit was filed.

Mr. BARTLETT.—No, never was. It was just made up for this case. It is not pretended that Capek made a waffle-iron, but it is clear that Capek showed the construction that is followed by us, rather than the construction as shown and disclosed by Mr. Wright in his patent.

(Whereupon Court adjourned until ten o'clock A. M., Wednesday, December 8, 1920.) [140]

Los Angeles, California,

Thursday, December 9, 1920, 10 o'clock A. M.

The COURT.—Proceed with this case on trial, Wright vs. Pacific States Electric Company.

Mr. BARTLETT.—May it please the Court—shall I proceed?

The COURT.—Yes, sir.

Mr. BARTLETT.—You recall we were in the midst of Mr. Lamb's deposition, and had come to that Capek device, and had somewhat explained it, as he did.

Now, proceeding with that, I come to the bottom of page 18, gentlemen, and on to page 19.

“Q. And your idea in making this is merely to have it illustrative of the Capek patent, Figures 1 and 7? A. It was.”

It was marked as for identification, and we now have it in as full. Mr. Lyon moved to strike out all testimony of the witness referring to the so-called Capek device, as incompetent, irrelevant and immaterial. Do you wish to press that?

Mr. L. S. LYON.—I merely make that on the ground it is not evidence. It is restricted as an illustrative model, so it is not really evidence in any sense.

Mr. BARTLETT.—Well, you will not strike out the deposition?

Mr. L. S. LYON.—Oh, no, I don't care to.
[141]

The COURT.—Well, proceed.

Mr. BARTLETT.—Now comes the cross.

Mr. L. S. LYON.—I would like to read the cross-examination, if I may.

Mr. BARTLETT.—Very well.

Mr. LYON.—At least, such portions—I may quote some of it, and state the rest.

Mr. BARTLETT.—Very well.

Mr. L. S. LYON.—Mr. Lamb, the witness in the case, is vice-president of Landers, Frary & Clark, the real defendant in this case, and he states he was one of the principal parties, or the prime instigator, in the development of these different devices; and the Court probably noticed the patents were

taken out in his name on a series of devices that have been produced, and he was consulted in the development of all of these devices.

The Court will remember in the opening statement that I stated that we expected to prove that Landers, Frary & Clark made a practice of copying the other manufacturers of electrical devices, and that it was in conformity with their practice that they produced this waffle-iron, imitating other inventors. Now, we took up each one of the devices they have produced here, their percolator, their iron, and so forth, and asked them if they had not followed other people in the art. Now, the first device they say they produced was the percolator. In cross-question 104 [142] the witness was asked:

“Q. I understand you that the percolator was the first electrically heated device; is that correct? A. Yes.”

Then cross-question 108, the question was asked:

“Q. But prior to Landers, Frary & Clark’s first manufacture of an electric percolator, there were electric percolators for sale on the market, were there not? A. Yes.

“Q. And by whom?

“A. The General Electric; Westinghouse; Simplex; those three.

“Q. And perhaps others? A. Yes.

“Q. Now, the next article that you manufactured, as I understand you, of electrically heated appliances, was the chafing-dish; is that correct? A. Yes.”

Then cross-question 113:

“Q. Now, prior to your Company’s production of the chafing-dish, chafing-dishes were old on the market, electrically heated?

“A. Well, yes—I wouldn’t say they were old—there was electrically heated utensils on the market.

“Q. And who were selling those, to your knowledge?

“A. The General Electric is the only one that I know of.

“Q. And at about this same period, as I understand you, you brought out a sad-iron.

“A. Yes.

“Q. Prior to your bringing out a sad-iron, a great many companies were selling electrically heated sad-irons, were they not?

“A. I wouldn’t say a great many companies; there were a few.

“Q. Will you name those that you know of?

“A. General Electric, Westinghouse, Simplex, and the Hot Point Electric Company.

“Q. And prior to your development of an electric heated stove, or the production of it by your company, these also were old in the art, were they not?

“A. There were others on the market; I can’t say how old they were.” [143]

Question No. 120:

“Q. You manufacture and sell electrically heated waffle-irons, I think you said. Is that correct? A. We do; yes.

“Q. And since when?

“A. Since October, 1917. That is the manufacture, as I understand it, not the development.”

Now, our patent was issued in January, 1917, and their first stove was introduced in October, 1917. It is on this testimony of the vice-president of the company that we base our contention that we have shown their custom of following other people in the art.

Question 124:

“Q. And Landers, Frary & Clark has assumed the defense in this case in which you are testifying, have they not?”

Now, the answer to that question was omitted by the reporter, but I understand it is stipulated that the answer is, “They have.” Is that not correct, Mr. Bartlett?

Mr. BARTLETT.—Yes.

Mr. L. S. LYON.—Now, coming to the defendant’s device, I particularly want to call the attention of the Court to the questions beginning at 130, on page 23, Mr. Bartlett. The Court will remember it asked counsel for the defendant what he contended they did not have in Claim 6 of this patent?

The COURT.—Yes.

Mr. L. S. LYON.—The first thing counsel stated that they did not have, was that they did not have casings pivotally connected together. That is specified in the second [144] clause in the claim, “Casings pivotally connected together.” Now, the witness, the vice-president and chief man who developed these things, was asked this question:

“Q. Now, the waffle-irons manufactured and sold for your Company include a pair of casings pivotally connected together, do they not?”

“A. They do.”

Mr. BLAKESLEE.—Our contention was, your Honor, not pivotally connected together as in the patent. That is the distinction we make. The patent describes a particular pivot which is necessary to the operation of the device, and that we have not got.

Mr. L. S. LYON.—Now, the next distinction—

The COURT.—I don't know that I understand that, but go ahead with the deposition, and we will bring it out in the argument.

Mr. BLAKESLEE.—Yes, sir.

Mr. L. S. LYON.—Then counsel pointed out as the other distinction the fact that their heating element, he said, was not mounted in the casing; it was not mounted in the casing, because, he said, it was held up from the top here, so it was not mounted in the casing.

The COURT.—“Means mounted in said casing, between said casings and said waffle members, for electrically heating said waffle members.” The contention is that they have not got that.

Mr. L. S. LYON.—That they have not got it mounted in there. They have the electrical heating unit, but they [145] say it is not mounted in there, but it is held up from the top, while ours is held up from the bottom.

Mr. BLAKESLEE.—Suspended.

Mr. L. S. LYON.—Now, of course, our conten-

tion is, whether it is held up from the bottom or the top, it is mounted in the casing. The witness was asked this question:

“Q. And each of them includes a waffle member provided with aluminum baking surfaces mounted on each of those casings, do they not?

“A. They do.

“Q. And those aluminum baking surfaces are so formed that each of them covers the upper edge of their respective casings, do they not? A. They do.”

Do you care to refer to any other part of the cross-examination on that point, Mr. Bartlett?

Mr. BARTLETT.—There are two or three points I will take up.

Mr. L. S. LYON.—That is the point that I wished to make in regard to that.

The COURT.—That is all in relation to Claim 6.

Mr. L. S. LYON.—Now, I am passing from the testimony in regard to that claim, to another proposition in the deposition. In referring to this Capek model produced, a couple of bowls, in which they made an illustrative model of that patent, the witness was asked:

“Q. That is, this specimen produced by you is not a workable article, but is merely for illustration purposes? A. Yes.” [146]

Which brings out the proposition that this is merely a restricted device to show the contention of counsel, and not to show evidence.

The COURT.—They admitted that,—an illustra-

tion of what could have been done, or what may be done.

Mr. L. S. LYON.—Yes. And then, at Cross-question 155, the witness again admits that his company has the control of the defense of this particular case, which I understand is admitted.

Now, this particular iron here is stipulated to have been manufactured and sold prior to Mr. Wright's invention, this electric iron, the Simplex iron (indicating). It consists of a base as distinguished from our casing arrangement, and it has these individual waffle members that move on this base, similar to the idea of those moving on there (indicating). These individual members are not made of aluminum, and do not have aluminum flanges or the other features of our claim.

Now, the witness was asked—this waffle-iron, the evidence shows, was made from the beginning of 1904 on, and it is the only waffle-iron electrically heated that has ever been made prior to Wright's invention. The witness was asked:

“Q. Prior to the development of your waffle-iron, were you and other officials with whom you advised, familiar with waffle-irons manufactured by the Simplex Electric Heating Company? A. I can only answer for myself. [147]

“Q. Were you, personally? A. Yes.

“Q. Do you consider the Simplex Electric Heating Company waffle-irons the equal of yours? A. In what way?

“Q. As a commercial article, and one which you would advise the trade to purchase.

“A. I do not.

“Q. For that reason you manufactured your own form of waffle-iron, instead of that manufactured by the Simplex Company; is that correct? A. Not for that reason.

“Q. Why?

“A. We manufactured waffle-irons because it was a natural development of our line. We never considered the Simplex, their iron, at all.”

We want to particularly emphasize that answer as showing the defendant did not follow anything he got out of this iron; that he knew about it, and admits he never followed this at all, but developed a different proposition.

“Q. You don’t consider it in any way comparable in structure or operation, to your iron; is that correct?

“A. I have never used the Simplex waffle-iron, and would not be in a position to give you a fair answer.

“Q. Do you believe that if presented at the same price, to the same trade, that your waffle-iron will outsell the Simplex waffle-iron?

“A. That is not a fair question. It would be impossible to produce the Simplex iron at the same price, and it could not be used in the same way.

“Q. Why not?

“A. Because it takes more current than goes on a lamp socket.

“Q. How about the cost of manufacture on the two, how do they compare?

“A. I couldn’t tell you, because I have never made a comparison; only I do know this, that it would cost more to manufacture the other.”

Those answers we particularly call the attention of the Court to, show that the defendant admits their [148] waffle-iron serves a different function, and is more economical to make, and works on light circuits, and other things, as I explained to the Court, and that this one will not. And in fact, their vice-president, in tracing the development of their iron, has thus repudiated this thing as being the foundation for their iron.

The COURT.—This Simplex, is it a patented thing?

Mr. L. S. LYON.—I do not believe there is a patent in evidence; I have not seen it. But it has been made for years, and sold for hotel purposes, since 1904, and we stipulated that.

Mr. BLAKESLEE.—And it has electrically heating elements.

Mr. BARTLETT.—Then it won’t be necessary to read these depositions about the introduction of the Simplex.

Mr. L. S. LYON.—I don’t think so. We have stipulated in the deposition that it was made.

Mr. BARTLETT.—Just a moment, if your Honor please. I want to read some of the cross

that my friend omitted, as bearing on the proposition of being copyists. He asked Mr. Lamb:

“Q. What led you to go into the electrical appliance business?

“A. Because we were in the alcohol heating lines. We realized that with the great demands for electricity, it was very important we should add that to our line, together with alcohol.”

And right here I have obtained permission from my friends to introduce as exhibits the Landers, Frary & Clark catalog showing the alcohol line, and one also showing the electrically-heated line.
[149]

Mr. L. S. LYON.—We will admit that those can be offered in evidence for illustrative purposes, Mr. Bartlett, if you will offer that sectioned iron of yours for the purpose of illustrating the inner construction of the alleged infringing device.

Mr. BARTLETT.—I make the trade.

The COURT.—Sir?

Mr. BARTLETT.—I told him I would make the trade.

The COURT.—All right.

Mr. L. S. LYON.—We would like to get that iron in, without cutting one up.

The COURT.—All right; let those catalogs and this iron be marked in evidence.

(The two catalogs and the iron were marked, respectively, Defendant's Exhibits 24, 25 and 26.)

Mr. BARTLETT.—Now, that is the reason they were going into the electrical line.

“Q. The percolator was the first? A. Yes.

“Q. And before your conception of the manufacture of a percolator by your company, or the conception of Mr. Smith, or anyone of your company, electrically heated percolators were on the market, manufactured by other companies, were they not?

“A. They were. Pardon me, I might answer in this way: There was no concern that I know of that manufactured a complete electric percolator. The electric part of the utensil was manufactured by an electric concern, and the utensil itself by a concern that made those utensils. Here is a device where the chafing-dish is made by one manufacturer, and the electric stove to which it is attached is made by the Simplex Company.” [150]

Will your Honor excuse me if I bring this to the bench?

The COURT.—Certainly.

Mr. BARTLETT.—He says, “We, or such people as we, made the chafing-dish. Simplex, or such people as Simplex, made the electrical heater.” And then they took the chafing-dish, percolator, or the like, and by mechanism attached it to their stove.

The COURT.—Instead of an alcohol lamp?

Mr. BARTLETT.—Instead of an alcohol lamp. And he explains, when the defendant came in, it was the first to make the entire device as an electrically-heated unit, so that there was no separation of one and the other, and it had no means of fastening, but were all built-in together, as I showed you the

other day. So that, even in the worst sense, we are not copyists, in that we started out on an entirely new line. But I cannot, myself, quite see the force of it. Of course, that will come in argument later.

Mr. L. S. LYON.—Of course, in the next question, Mr. Bartlett, before you people ever thought of doing that—

Mr. BARTLETT.—I will read that.

The COURT.—Wait a moment, Mr. Lyon.

Mr. BARTLETT.—Now, he also says:

“This is an old percolator made by Landers, Frary & Clark, and sold to the American Electric Heating Company, who added the electric stove.” [151]

Now, this is such a thing as you will see when you come to look at the catalog, a regular alcohol-heated percolator, and an alcohol lamp used to stand in here. They sold it to these fellows, who just put that thumb-screw business there, and hitched their electric plant, so to speak, instead of the alcohol lamp, to it. And that was the way they got it first, and a great many were sold that way. When our people really went into it, themselves, then they made a base here and attached, as I showed you the other day, the heater, and made a different unit from it (indicating). So that, while it is true, in one sense, if your Honor please, that there were other things of this household sort made by several different companies, no one pretended to pre-empt for all time the production by others, particularly if it was an advanced line. And Mr. Lamb adds:

“Landers, Frary & Clark, I believe, were the first ones to make a complete electric percolator.”

Then my friend read the rest.

Mr. L. S. LYON.—The next question—to make that complete,—

“Q. But prior to Landers, Frary & Clark’s first manufacture of an electric percolator, there were electric percolators for sale on the market, were there not? A. Yes.”

Mr. BARTLETT.—I have just explained there were these on the market.

The COURT.—I think I understand that. [152]

Mr. BARTLETT.—Now, they go through with that all, and at the end Mr. Lamb says again:

“There were, but as I said before, there were no devices in the percolator line on the market that were enclosed with a base on the bottom, in the way we have enclosed this one.” And so on.

Now, my friend read part of his cross-examination of Mr. Lamb as to the claims, which is all clear enough and all right enough, from that viewpoint, and after he had gotten through with the pivotal connections, he asked him:

“Q. And included within your waffle-iron are means mounted in the casings, between the casings and the waffle members, for electrically heating the waffle members; is that correct?

“A. Not between; I wouldn’t say between. There is an electric unit positioned on the bot-

tom of the waffle-iron, the same as we do with all other appliances.

“Q. The electric-heating units are positioned between the bottom of the cooking surface and one face of the casings, between which the cooking surface is mounted?

“A. It is fastened to the bottom of the waffle-iron.

“Q. Then in your waffle-irons the heating units are placed between the heating surface and one surface of the respective casings; is that correct?

“A. There is no space between the unit and the surface; it is fastened right to it. The question would indicate that the unit was placed in between the two. It is not; it is clamped against the heating surfaces, the same as in the other electric appliances, just the same as we have done in everything we have made.”

The COURT.—I don't understand the distinction he is making there.

Mr. BARTLETT.—Well, would you like to interrupt there to explain to your Honor a moment?
[153]

The COURT.—Either do it now or in the argument, as you please. It would come best in the argument.

Mr. BARTLETT.—Perhaps so.

The COURT.—All right.

Mr. BARTLETT.—I meant, I did not want to have the Court feel I evaded it now, at all.

“Q. Is there anything between the heating element and one face of the casing?

“A. There is.

“Q. What?

“A. The plate that clamps the unit, just as we do in the stove, the chafing-dish, and everything we make, identical.

“Q. Then, as I understand you, your waffle-iron includes a heating element mounted between the casing and the waffle members, for heating the waffle members; is that correct?

“A. No, it is not; it is attached to the heating surface; there is no space between.

“Q. What do you mean, ‘There is no space between’?

“A. Between the unit and the waffle-iron and the casing. There is a space beneath the underside of the plate that clamps the electric unit to the waffle-iron.

“Q. Except for this plate, there is nothing between the heating element and the face of the casing below, is there? A. No.

“Q. You mean there is not?

“A. There is not.

“Q. Well, then, considering the face of the casing, and the waffle member, there is in your waffle-iron a heating member, is there not?

“A. No. There is a heating member between the plate and the waffle-iron. There is a plate to add in between there that clamps. This unit is clamped to the bottom, and there is a plate

underneath. There is air space below the plate, but not between the unit and the waffle-iron.

“Q. What is the function of this plate?

“A. To hold the unit against the cooking surface to be heated.

“Q. That is the only function of the plate?

“A. That is the only function.” [154]

Now, that fills in what my friend did not read; and, as your Honor has expressed yourself to postpone the explanation to the argument,—my friend, Mr. Blakeslee, suggests, if you are willing, that I do it now,—that the point might slip away from us. I took you at your word.

The COURT.—I think you better let it go to the argument.

Mr. BARTLETT.—Yes; thank you.

Now, my friend read a little of the cross-examination about Capek, that resulted in showing that a very efficient waffle-iron could be made that way; and he considers the two identical, only one is round and the other is square.

Mr. L. S. LYON.—Now, you have passed one question I would like to know if you rely on, and these is an objection, Question 148, and the answer to Question 148. If that is to be considered part of the evidence, I would like to have a ruling on the objection.

The COURT.—Proceed.

Mr. BARTLETT.—Let's see,—“And this specimen that has been produced by you”—Oh, yes, he was asking about Capek, and Mr. Lyon was cross-examining.

“Q. And this specimen has been produced by you, with the Wright waffle-iron in view, to show how the Capek device can be adapted to approximate, in your opinion, the Wright waffle-iron; *in* that so? A. That is not so.

“Q. With what object in view did you make this [155] specimen?

“A. To show that it could be adapted in the same way that Landers, Frary & Clark made their waffle-iron, which was made before we knew there was such a patent as the Wright patent.

“Mr. LYON.—I move to strike out the statement ‘before we knew there was such a patent as the Wright patent,’ as not responsive.”

Mr. L. S. LYON.—Now, the question merely was, “With what object in view did you make this specimen?” referring to the Capek patent; and the answer was, “To show that it could be adapted in the same way that Landers, Frary & Clark made their waffle-iron. We do not object to the answer that far. And then he adds: “Which was made before we knew there was such a patent as the Wright patent.” Now, that don’t refer to anything in the question at all, and it is objected to as not responsive, and we ask it be stricken out on that ground. The question has nothing to do with the time when they made their waffle-iron, at all, whether it was made before or after the Wright patent, or anything else of that kind.

The COURT.—I will hear from you, Mr. Bartlett.

Mr. BARTLETT.—The question opened up to the witness, of course, a comparison of devices. “Q. For what object did you make this specimen?” Now, his complete object, he says, was to show it could be adapted the same way we adapted it. When? Before we ever heard of the Wright patent. To make this fully responsive, and clearly responsive, as carrying out what was in the witness’ mind, [156] of why he made this model.

The COURT.—I will sustain the motion.

Mr. BARTLETT.—The motion to strike out?

The COURT.—Yes, sir.

Mr. BARTLETT.—Very well; that is stricken out. Perhaps we better make it clear on the record, had we?

The COURT.—Oh, I think the record will be straight.

Mr. BARTLETT.—All right, then. Well, on redirect:

“Q. In answer to one of the questions asked you on cross-examination, you said that Landers, Frary & Clark had begun work on their waffle-iron before you had any knowledge of the Wright patent.

(Objected to as not proper redirect examination, and as immaterial.)

“A. Yes, sir.”

We claim that question and answer. Undoubtedly counsel thought, if there was an objection there, he ought to put a direct question to have the point covered, and he put the question, and the witness’ answer was, “Yes.” If it is immaterial, it might

have stayed in, the other answer. The fact it was stricken out shows it may be material, so we claim it, if your Honor pleases.

Mr. L. S. LYON.—The principal objection is that it is not proper redirect examination. There is nothing stands in the cross-examination in any way referring to when the witness made this iron, whether it was gotten up before or after he knew about the Wright patent.

The COURT.—Are you making your motion now to strike that out? [157]

Mr. L. S. LYON.—Yes.

The COURT.—Read the question again.

Mr. BARTLETT.—(Reading:)

“Q. In answer to one of the questions asked you on cross-examination, you said that Landers, Frary & Clark had begun their work on their waffle-iron before you had any knowledge of the Wright patent.

“(Objected to as not proper redirect examination, and as immaterial.)

“A. Yes, sir.”

Mr. L. S. LYON.—Now, the first objection is on the ground that it is not redirect examination. The second objection is that it is immaterial, because it is the witness' testimony as to what he testified about at another time, and don't state a fact. It just says, “In answer to one of the questions you said so-and-so.” Now, that answer has been stricken out.

The COURT.—I think that brings it in. I will overrule your motion.

Mr. L. S. LYON.—The second objection is on the ground it is immaterial, because it don't state a fact. It just states what he testified to at some other time.

The COURT.—The ordinary man will understand that to be a repetition of what he had previously testified to.

Mr. L. S. LYON.—Exception.

Mr. BARTLETT.—It is only a repetition as to that line of manufacture, which I have already explained to your Honor that he testified about preceding, except it will [158] make it pretty clear, if you will just pardon a question and answer:

“Q. Do you know of any other manufacturer of electric cooking utensils who, prior to the entry of Landers, Frary & Clark in the field, made their utensils with an enclosing shell or casing, upon the upper edge of which rested the cooking surface?

“A. There was some few exceptions, but in percolators, chafing-dishes, and things of that kind, those utensils were made by people who made the regular household utensils, and the electric stove was attached to the bottom, without a casing. In the original development of our line, we made all of our utensils with a base to enclose the electric stove or heating unit, where the others had left it exposed.

“Q. And it was on the upper edge of such a base that the cooking surface was mounted, was it? A. It was.

“Q. Prior to the manufacture of the electrical heating utensils, such as percolators, chafing-dishes, stoves, etc., by Landers, Frary & Clark, I understood you to testify on cross-examination, that they made a complete line of such articles, heated by alcohol lamps, and the like; is that correct? A. It is.

“Q. Please say how your waffle-iron differs from your stove, Exhibits 8 and 9, in respect to that feature of the waffle-iron where the baking surface extends over and rests upon the upper edge of the casing.

“(Objected to as irrelevant, and that the questions of comparison and difference are matters for the court. The witness can only testify as to the facts.)

“A. I consider they are practically the same.”

It strikes me that that is a question of fact: “Please say how your waffle-iron differs, in fact, from your stove.”

The COURT.—I understand it is calling for an opinion of the witness, as sort of expert testimony. [159]

Mr. L. S. LYON.—Well, I didn’t know a witness could testify whether he thought two things, when they were obviously different, were in fact the same. I thought he could testify that this part had this, and this part had that, and this one worked this way, and this one worked that way; but to ask him whether he thinks they are different, or the same, I don’t think that is evidence at all. I don’t think

an expert can give his opinion on the ultimate issues in the case. He can give his opinion on how a thing works, or how it is made, but not take a device, or two devices, and say, "These are the same." If that was so, a witness could take an infringing device and testify it was the same as the patented device, which I know this Court has held is improper.

Mr. BARTLETT.—If your Honor please, a moment?

The COURT.—Yes.

Mr. BARTLETT.—(Reading:) "Please say how your waffle-iron differs from your stove, Exhibits 8 and 9, in respect to that feature of the waffle-iron where the baking surface extends over and rests upon the upper edge of the casing,"—not a construction of the language of the patent, or any claim of the patent, but, "Your waffle-iron, how does it differ from your stove in respect to that feature?"

Mr. F. S. LYON.—In the interpretation—

Mr. BARTLETT.—Just a moment, please. [160]

The COURT.—Mr. Lyon, can't you wait?

Mr. F. S. LYON.—I thought counsel was through.

The COURT.—You butted in here three or four times while he was talking.

Mr. BARTLETT.—I was only about to add that it seems clearly a question of just a fact, from a man who manufactured it himself, as to that projecting edge. Now, whether it is the projecting edge of the Claims, or the projecting edge of Mr. Wright's invention, it is for the Court to determine.

But, as a matter of fact, he says he considers the projecting edge of the stove the same, in fact, as the projecting edge of his waffle-iron. It seems as though it is a perfectly fair question, and a very pertinent answer, and I would like to claim it.

Mr. F. S. LYON.—On the interpretation that counsel has attempted to put upon the answer at the present time, we urge the further objection that the answer is not responsive. The question is, how a thing differs, and the answer just simply is a conclusion that they are substantially the same, and is not a statement of any difference. The question asked him to point out the difference.

Mr. L. S. LYON.—And it is not a statement of fact.

The COURT.—Let me take the deposition, will you, please?

Mr. BARTLETT.—Yes, your Honor. Question 165. [161]

The COURT.—Well, this is the question now: "Please say how your waffle-iron differs from your stove, Exhibits 8 and 9, in respect to that feature of the waffle-iron where the baking surface extends over and rests upon the upper edge of the casing." Now, that is calling for a fact. If there is any difference, he is called upon to explain, and he simply says there is no difference, it is the same thing. That is his opinion as a witness. I will overrule the objection.

Mr. BARTLETT.—The objection is overruled, Mr. Lyon.

Mr. L. S. LYON.—Exception.

Mr. BARTLETT.—(Reading:)

“Q. And the characteristics and advantages of aluminum as cooking surfaces were well known to Landers, Frary & Clark at that time?

“Objected to as irrelevant and immaterial.

“A. They were.”

I don't care whether it is in or out. Now, on recross-examination—well, that was read by my friend, what he desired.

That brings us to the iron, which obviously is not disputed, and we need not spend any time on, except—pardon me, may I step here with this?

The COURT.—Yes.

Mr. BARTLETT.—As you will remember, most of the waffle-irons that we have been acquainted with are found in shape, because stove-holes are round, and they had to fit over the stove-holes. The only point, of course, [162] of this, which is not electrically heated, was to show the use and advantages of aluminum as a waffle surface, long prior to any disclosure by Mr. Wright. And it happens, while this is not an evidentiary part of the exhibit, the tag that was on it when it was introduced says, “It is not necessary to grease the aluminum griddle to keep the cakes from sticking.” That is a fact that is inherent in the aluminum as metal, whether Mr. Wright states it, or the tag states it, or the defendant.

The COURT.—If you grease it, doesn't it spoil it?

Mr. BARTLETT.—No, it does not spoil it.

Mr. F. S. LYON.—You have to burn it off before you can use it, without greasing, after that; isn't that correct, Mr. Bartlett? If you grease it once, you have to continue greasing, or burn it all off, one or the two, before you start over again, without greasing.

Mr. BARTLETT.—If you will pardon me, this explains it. You can't get along without greasing aluminum, unless you have your heat just so. If they are in Mr. Wright's, or anybody else's, if that is too hot, they will stick. If it is brought up gradually, and there is this gradual heat, then you can get on. And you will notice Mr. Wright testified, "It won't stick if your heat is right," or to that effect.

That is a very immaterial point, anyway,—whether it will stick or not. Aluminum is, in itself, time out of [163] mind, old—I mean, with relation to this patent—for cooking purposes; and this was put in, of course, to meet the proposition that there was any patentable novelty at that time in having the waffle surface made of aluminum.

The COURT.—Well, this is a combination patent, and I presume all the elements are old; it is simply a question whether it is in a combination that is patentable.

Mr. BARTLETT.—Precisely. We only want to show that the element aluminum does not in itself add novelty to that combination. If the combination is new, it is only an adjunct in the description of the element, at most.

Mr. F. S. LYON.—Mr. Bartlett, in order that

the Court may understand this waffle-iron catalog you have there, I believe it is our stipulation it has been on the market all the time during the last twenty years. Is that correct—approximately that, anyway?

Mr. BARTLETT.—Waffle-irons had been manufactured and sold in the market in the United States prior to the earliest date of invention which may be claimed on behalf of the patentee of the patent here in suit. That is the stipulation.

Now, we do not need to read the deposition proving the Simplex. Your Honor will pardon me just a moment?

The COURT.—Yes.

Mr. BARTLETT.—My colleague, Mr. Blakeslee, says the depositions state the construction of the Simplex iron. [164] I do not think we have any controversy between us that they have electric heating elements in each side.

Mr. F. S. LYON.—You mean by the simplex iron—

Mr. BARTLETT.—This one (indicating).

Mr. F. S. LYON.—No; we understand each one of those contains a heating element inside, each side.

Mr. BARTLETT.—There is no controversy between us as to that.

Mr. F. S. LYON.—No, not that I know of.

Mr. BARTLETT.—The defendant rests.

Mr. L. S. LYON.—Mr. Bartlett, there are some catalogs to go with this iron.

Mr. BARTLETT.—Oh, yes.

Mr. L. S. LYON.—I suppose you want to attach those?

Mr. BARTLETT.—Well, they have been laid in as part of the deposition.

Mr. L. S. LYON.—Well, I can't find them.

Mr. BARTLETT.—Well, I have got them here.

Mr. L. S. LYON.—There is one about that aluminum waffle-iron.

Mr. BARTLETT.—There are those, there is the aluminum waffle-iron, and there is the other (producing catalogs).

Mr. L. S. LYON.—There was another one on the aluminum waffle-iron here, too, somewhere.

Mr. BARTLETT.—No.

Mr. L. S. LYON.—This is No. 20, and here is No. 21. [165] Oh, no.

Mr. BARTLETT.—While you are looking, will you pardon me if I dictate the introduction of those exhibits, to get our proofs in sequence?

The COURT.—Proceed.

Mr. BARTLETT.—Counsel for defendant offers in evidence Landers, Frary & Clark catalog of electrically-heated articles, and the same is marked Defendant's Exhibit No. 24.

(The document so offered and received in evidence was marked Defendant's Exhibit No. 24).

Mr. BARTLETT.—Counsel for defendant also offers in evidence catalog of Landers, Frary & Clark, showing electrically-heated utensils, and the same is marked Defendant's Exhibit No. 25.

(The document so offered and received in evidence was marked Defendant's Exhibit No. 25.)

Mr. BARTLETT.—Counsel for defendant also offers in evidence one of defendant's waffle-irons—

The COURT.—Those are already in, are they not?

Mr. BARTLETT.—It was let in, but it was not put in in form in the record, to get its number.

Counsel for defendant also offers in evidence one of Landers, Frary & Clark's waffle-irons, with the upper waffle member cut, to show the interior construction, and the same is marked Defendant's Exhibit No. 26. [166]

(The device so offered and received in evidence was marked Defendant's Exhibit No. 26.)

Mr. BARTLETT.—We rest.

Mr. L. S. LYON.—We have no rebuttal.

Mr. F. S. LYON.—Plaintiff rests.

(Testimony closed.) [167]

(Title of Court and Cause.)

State of California,

County of Los Angeles,—ss.

I, W. C. Wren, do hereby certify that the foregoing is a true, correct and complete copy of the testimony and proceedings adduced at the trial of the cause known in the District Court, Southern District of California, Southern Division, as William D. Wright, Plaintiff-Appellee, vs. Pacific States Electric Co., Defendant-Appellant, and all those portions thereof set forth and specified in the stipulation as to transcript of record on appeal, and exhibits, and order thereon, on file in said cause; and all such testimony and proceedings are so re-

produced in the foregoing copy in the exact form reported.

And I further certify that I am the reporter who reported the proceedings on the trial of said cause.

W. C. WREN,

Shorthand Reporter.

Dated Los Angeles, Cal., June 20, 1921. [168]

In the United States District Court, Southern District of California, Southern Division.

IN EQUITY—No. D-68.

WILLIAM D. WRIGHT,

Plaintiff,

vs.

PACIFIC STATES ELECTRIC COMPANY,

Defendant.

Petition to Reopen Case, etc., and Notice Thereof.

Please take notice on Monday, January 3, 1921, at the hour of ten o'clock A. M., or as soon thereafter as counsel can be heard, and in the courtroom of the Honorable Oscar A. Trippet, Judge of this court, and in the Federal Building, Los Angeles, California, the defendant herein will by counsel petition this Honorable Court for an order permitting this cause to be reopened for the purpose of amplifying the proofs with respect to the prior art by the offer and receipt in evidence of the attached copy of British patent No. 10,015, to Crompton of 1893, for Improvements in Apparatus for use in the

Utilization of Electrical Energy for Culinary Purposes; and that such exposition or elucidation or argument with respect thereto may be made by counsel for the parties hereto as the Court may desire or deem necessary, and for such further procedure in the premises and with respect to said British patent as the Court may be pleased to require or permit or as may seem necessary; and that this Honorable Court will be further petitioned at that time and place for permission to file in this cause said copy of said British letters patent, or a copy of a copy thereof, from the records and files of, and duly certified by, the United States Commissioner of Patents; and this Honorable [169] Court will be further then and there petitioned to withhold any decision as to the merits of this cause until due consideration has been given to said British patent.

This petition will be based upon the records, files, papers, proofs, proceedings and arguments heretofore made and had and on file in this cause, and upon the annexed affidavit of Raymond Ives Blakeslee.

JOHN P. BARTLETT,
RAYMOND IVES BLAKESLEE,
H. E. HART,
LUCIUS P. GREEN,

Solicitors and of Counsel for Defendant. [170]

In the United States District Court, Southern District of California, Southern Division.

IN EQUITY—No. D-68.

WILLIAM D. WRIGHT,

Plaintiff,

vs.

PACIFIC STATES ELECTRIC COMPANY,

Defendant.

Affidavit of Raymond Ives Blakeslee.

State of California,

County of Los Angeles,—ss.

Raymond Ives Blakeslee, being duly sworn, says: That he is a solicitor and of counsel for defendant in the above-entitled cause and took part on behalf of defendant in the trial and argument thereof; that he has carefully examined the attached copy of British patent of 1893 to Crompton, and is of the true and certain opinion that the disclosure of the same fairly comprises two members each having a casing, said casings being hinged or pivoted together or adapted to be so hinged or pivoted together, or intended to be so pivoted or hinged together if desired, said casings being provided with electrically heated elements of rough or uneven surfaces between which the food or material to be cooked is to be placed; that one of said heated elements is disclosed to have a flange overlapping the edge of the casing; that said casings are shown to be substantially rectangular; that such Crompton

patent device is clearly adapted for the making of waffles or of making cakes or other batter products having indented or patterned surfaces; that electrical [171] *resistance* elements are clearly shown in said Crompton patent for heating said heated elements and the same are shown in insulating means to insulate them from the casings; that affiant is of the full opinion that the Wright patent as to the claims in suit does not disclose any subject matter involving invention in any respect over the disclosures of such Crompton patent, and particularly in view of the well-known use of *alluminum* for waffle-iron heated surfaces as shown in the Griswold waffle-iron in evidence, the use of which material under the law is open to the adoption of any person, and over the hinged casings and other parts of the Simplex waffle-iron in evidence; that defendant's device is obviously much closer in construction and mode of operation to the disclosure of the said Crompton patent than it is to the disclosure of the Wright patent in suit; that the first knowledge affiant had or received of this Crompton patent was by a telegram received by Mr. Bartlett from counsel Hart, for defendant, in Connecticut, during the trial of this cause and referring to the patent; that defendant's counsel made diligent effort at that time to inspect a copy of such British patent but could not find same in the libraries of either Los Angeles, San Francisco or Berkeley, California, although diligent attempt was made to locate such copy in said cities; that the first time affiant was able to inspect said copy of said Crompton patent

was when same was received at affiant's office during the week succeeding the trial of this cause; that affiant thereupon wired counsel Bartlett in this cause, he having then left for New York City, and that counsel Bartlett replied under date of December 23, 1920, stating that he had not seen a copy of said Crompton patent but stating that said copy of said Crompton patent attached hereto came to said counsel Hart the day he wired Los Angeles and so came to said counsel Hart through citation [172] by the British Patent Office in some pending case; that said counsel Bartlett likewise wired under said date last mentioned that he had ordered a certified copy of said Crompton patent from the United States Patent Office, the same to be forwarded to affiant; and that same should arrive in Los Angeles in the due course of the business of the Patent Office, plus the period required for transmission by mail.

That affiant has been diligent in presenting this matter to this Honorable Court and would have presented the same this present day but has been advised that the Honorable Oscar A. Trippet, Judge of this Court, is not to hold Court this day and will probably not be in Court or in Chambers during the ensuing week; that affiant was so advised as last stated by the office of the clerk of this court; and affiant further submits that the discovery of this British patent, even if a copy of same might be present in the United States Patent Office files, could not reasonably have been made upon the ordinary search inasmuch as copies of foreign letters

patent are not within the classified files of the Patent Office, but, as affiant is informed and believes, are only retained in the files of the several Examiners of the Patent Office and that a search for same might well have been futile, due to the complicated and overlapping classifications of inventions in the Patent Office and distribution of the applications for patents for inventions throughout the many divisions of the Patent Office; and affiant further submits that irrespective of any possible avoidable delay in the discovery of this British patent the same within equity and that justice may be done, both to defendant and the public at large, should within all propriety be brought to the attention of and duly considered by this Honorable Court in connection with the determination of this cause and rendition of decision herein, all subject to such [173] proper and just terms or costs, if any, as this Honorable Court may deem proper to impose.

RAYMOND IVES BLAKESLEE.

Subscribed and sworn to before me this 27th day of December, 1920.

[Seal]

MILDRED LEACH,

Notary Public in and for the County of Los Angeles,
State of California. [174]

[Endorsed]: In Equity—No. D-68. In the United States District Court, Southern District of California, Southern Division. William D. Wright, Plaintiff, vs. Pacific States Electric Co., Defendant. Petition to Reopen Case, etc., and Notice Thereof. Received copies of within petition and notice and affidavit and patent copy this 27th day of December,

1920. ———, Solrs. for Pltff. Received copies of the within papers this 27th day of December, 1920. Frederick S. Lyon, Leonard S. Lyon, Solrs. for Plaintiff. Filed Dec. 28, 1920. Chas. N. Williams, Clerk. By R. S. Zimmerman, Deputy Clerk. Raymond Ives Blakeslee, 726-30 California Building, Los Angeles, Cal., Solicitors for Defendant.
[175]

[Second Edition.]

No. 10,015—A. D. 1893

Date of Application, 19th May, 1893

Complete Specification Left, 19th Feb., 1894—Accepted, 24th Mar., 1894

PROVISIONAL SPECIFICATION.

Improvements in Apparatus for Use in the Utilization of Electrical Energy for Culinary Purposes.

We ROOKES EVELYN BELL CROMPTON, Engineer, and HERBERT JOHN DOWSING, Engineer, both of Mansion House Buildings in the City of London do hereby declare the nature of this invention to be as follows:—

In the utilization of electrical energy for the production and application of heat for culinary purposes, such as grilling or broiling meat, toasting bread, grilling slices of pudding and for similar purposes, we find that if we bring these substances in direct contact with plain flat electrically heated surfaces, unsatisfactory results are obtained, as the steam or moisture imprisoned in the pores of the substance to be cooked does not get free exit, and the result is that the cooked product is sodden, heavy, and unpalatable. In order to meet this difficulty we cut or form grooves in our flat surfaces, or we roughen these surfaces by a series of projections or prominences placed sufficiently near together to directly impart the heat to the material we desire to cook and at the same time to allow sufficient spaces between the prominences to allow of escape of the steam or moisture.

In some cases we prefer to use two directly heated surfaces both of which may be formed as above, in other cases we employ one directly heated surface formed as above and a second plate or pressure plate also formed as above which need not be directly heated. In other cases we may only use one such heating surface.

We do not confine our present invention to any special form of electrically heated plate but apply it as a method of giving the correct form of surface for the above mentioned objects to any form of electrically heated plate used for culinary purposes as we find by these means that excellent results both as regards the grilling or broiling of meat and toasting of bread or slices of pudding can be obtained. In the case of the grilling of meat where the juices contained in the meat are considerable in extent, we sometimes consider it necessary to form the grooves by which the juice can escape from the underside of the meat larger than those necessary for toasting bread or materials which do not contain so much moisture.

Dated this 19th day of May 1893.

WM. BROOKES & SON.

55 & 56, Chancery Lane, London, Agents for the Applicants.

COMPLETE SPECIFICATION.

Improvements in Apparatus for Use in the Utilization of Electrical Energy for Culinary Purposes.

We ROOKES EVELYN BELL CROMPTON Engineer, and HERBERT JOHN DOWSING Engineer, both of Mansion House Buildings in the City of London, do hereby declare the nature of this invention and in what manner the same is to be performed, to be particularly described and ascertained in and by the following statement:—

In the utilization of electrical energy for the production and application of heat for culinary purposes such as grilling or broiling meat, toasting bread, grilling slices of pudding and for similar purposes, we find that if we bring these

Apparatus for Use in the Utilization of Electrical Energy for Culinary Purposes.

substances in direct contact with plain flat electrically heated surfaces, unsatisfactory results are obtained, as the steam or moisture imprisoned in the pores of the substance to be cooked does not get free exit, and the result is that the cooked product is sodden, heavy and unpalatable. In order to meet this difficulty we cut or form grooves in our flat surfaces, or we roughen these surfaces by a series of projections or prominences placed sufficiently near together to directly impart the heat to the material we desire to cook and at the same time to allow sufficient spaces between the prominences to allow of escape of the steam or moisture. In some cases we prefer to use two directly heated surfaces both of which may be formed as above, in other cases we employ one directly heated surface formed as above and a second plate or pressure plate also formed as above which need not be directly heated. In other cases we may only use one such heating surface.

We do not confine our present invention to any special form of electrically heated plate but apply it as a method of giving the correct form of surface for the above mentioned objects to any form of electrically heated plate used for culinary purposes as we find by these means that excellent results both as regards the grilling or broiling of meat and toasting of bread or slices of pudding can be obtained.

In the case of the grilling of meat where the juices contained in the meat are considerable in extent, we sometimes consider it necessary to form the grooves by which the juice can escape from the underside of the meat larger than those necessary for toasting bread or materials which do not contain so much moisture.

Fig. 1 shews a front elevation partly in section of such an apparatus for use in grilling meat or like matters and Fig. 2 shews the same in plan view with the heated plate *a* broken away at parts to shew position of the heating circuits embedded in the enamel.

Fig. 3 is an edge view of a lid or cover to be placed over the article being cooked.

Fig. 4 is a portion of the upper surface of such a heating appliance of a pattern particularly adapted for making toast.

Fig. 5 a side view of Fig. 4.

The matters to be grilled or toasted are rested upon the projections or flutes of the plate *a* and the lid *a** is rested thereon.

Any moisture from the cooking matter finds free escape by the channels or interstices between these ridges or projections. The plate *a** may contain enamel locked circuits *b* connected electrically or it may be plain metal and be hinged or loose

Having now particularly described and ascertained the nature of our said invention, and in what manner the same is to be performed, we declare that what we claim is:—

In utilizing electrical energy for culinary purposes,—

1. The manufacture and use of metallic heating surfaces, with enamel backing forming a supporting, fixing and insulating medium for wire or strip conductors of electricity for the purpose of heating said surfaces, and with corrugated, fluted or projecting parts adapted to admit of ready escape of steam or moisture generated, by way of the channels so provided, substantially as and for the purpose set forth.

2. The combination, arrangement and use of parts of an electric heating or toasting apparatus, substantially as and for the purposes set forth.

Dated the 19th day of February, 1894.

WM. BROOKS & SON,

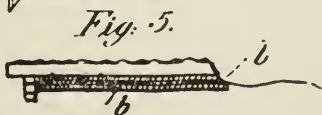
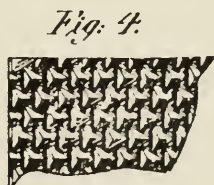
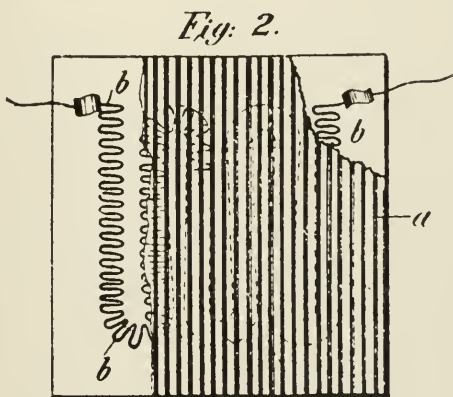
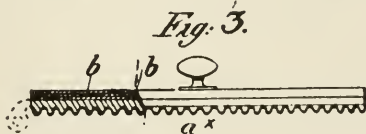
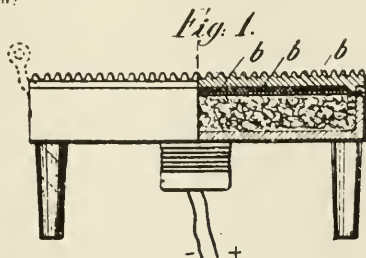
55 & 56, Chancery Lane, London, Agents for the Applicants.

A.D. 1893 MAY 19. N^o. 10,015.

CROMPTON & another's COMPLETE SPECIFICATION.

1 SHEET

2nd Edition.



[This Drawing is a reproduction of the Original on a reduced scale]

At a stated term, to wit, the January, 1921, Term of the District Court of the United States of America, within and for the Southern Division of the Southern District of California, held at the courtroom thereof, in the city of Los Angeles, on Monday, the twenty-fourth day of January, in the year of our Lord one thousand nine hundred and twenty-one—Present: The Honorable OSCAR A. TRIPPET, District Judge.

No. D-68—Eq. S. D.

WM. D. WRIGHT,

Plaintiff,

vs.

PACIFIC STATES ELECTRIC CO.,

Defendant.

**Minutes of Court — January 24, 1921 — Order
Directing that Patent be Filed, etc.**

This cause coming on this day for hearing of petition to reopen case; F. S. Lyon, Esq., appearing as counsel for plaintiff; R. I. Blakeslee and C. J. Brown, Esq., appearing as counsel for defendant; and R. I. Blakeslee, Esq., of counsel as aforesaid, having argued in support of motion to reopen case; and L. S. Lyon, Esq., of counsel as aforesaid, having replied thereto, it is by the Court ordered that the patent in question be filed, and the defendant to pay to plaintiff the sum of \$50.00. [179]

In the United States District Court, Southern District of California, Southern Division.

IN EQUITY—No. D-68.

WILLIAM D. WRIGHT,

Plaintiff,

vs.

PACIFIC STATES ELEC. CO.,

Defendant.

**Receipt for Terms Imposed by Court Under Order of
January 24, 1921.**

Received from Raymond Ives Blakeslee, Esq., solicitor and counsel for defendant, the sum of fifty dollars (\$50.00), being terms imposed by Court under order of January 24, 1921, on granting of petition of defendant for leave to reopen case and introduce copy of said Crompton patent in evidence.

Dated January 24, 1921.

FREDERICK S. LYON,

LEONARD S. LYON,

Solicitors and Counsel for Plaintiff. [180]

[Endorsed]: No. D-68. United States District Court, Southern District of California, Southern Division. William D. Wright vs. Pac. States Elec. Co. Receipt for Terms. Filed Jan. 25, 1921. Chas. N. Williams, Clerk. By R. S. Zimmerman, Deputy Clerk. [181]

United States District Court, Southern District of
California, Southern Division.

IN EQUITY—D-68.

WILLIAM D. WRIGHT,

Plaintiff,

vs.

PACIFIC STATES ELECTRIC COMPANY,
Defendant.

Memorandum Opinion.

FREDERICK S. LYON, Esq., and LEONARD S.
LYON, Esq., of Los Angeles, California, for
Plaintiff.

RAYMOND IVES BLAKESLEE, Esq., of Los
Angeles, California, and JOHN P. BART-
LETT, Esq., of New York, for Defendant.

I have made up my mind in this case that the patent of the plaintiff is valid as to the claims in controversy. I think, however, in view of the prior art and the slight advance made in the invention over the prior art, that the claims should be narrowly construed and should be limited to the precise machine described. But the patent should not be limited to the grill member as claimed in the claims previous to claim six.

Having reached the conclusion that the patent should be upheld, the next question is to determine whether or not there is infringement. The chief argument of the defendant, both orally and in its brief, is to the effect that the claims of the patent

must be so limited as not to include defendant's device, and states:

“Those claims must be construed in view of the drawings and specification of the patent in suit. Those drawings and that specification show means and ways of construction and mode of operation that are different from the means and ways of construction and mode of operation of defendant's device.

In the waffle-irons of the Wright Patent in [182] suit the casings are the peculiar and dominant features. They are made and operate like metal boxes bottoms down and covers off. Into these metal boxes, as containers, and supports, Wright places in the order he names and from the bottom of the box upward, first, a layer of insulating material, then, the wire to be electrically heated, then, another layer of insulating material, and then, on top of these, the waffle-iron itself with its edges projecting over the edges of the box. That was the Wright conception of the way to make an electrically heated waffle-iron, use a box as a box and place in the box the parts enumerated and in the order stated.

In the defendant's device that is not the construction and mode of operation. In defendant's device the dominant feature is the heated or waffled surface itself. On to the bottom of this is fastened by a clamping metal plate the insulating material and the wire to be electrically heated. Legs or supports could be directly at-

tached to the waffle-iron itself and the device would function and operate. But, as a finishing, a screen or cover is provided, which does not 'contain,' in the sense of the Wright patent, the parts, but screens or covers the parts and provides an air space below the clamping plate and electrical unit."

I do not agree with this argument of the defendant. The boxes are specifically claimed by plaintiff. Now, if the defendant is of the opinion that these boxes are but a finishing, a screen or cover, it seems to the Court that the defendant might devise something else. It is true as claimed by the defendant that its electrical attachment is fastened to the waffle-irons by screws instead of being contained in a box, but the plaintiff's device is attached to the waffle-irons, and necessarily so, but not in the same way. The defendant's device being in every way the same as that claimed by the plaintiff in his last four claims, the mere difference in the construction of the electrical appliance or attachment as above stated does not avoid infringement.

The plaintiff will draw a decree and follow Rule 45.

Dated March 14, 1921.

TRIPPET,
Judge. [183]

[Endorsed]: Original. No. D-68—In Equity. U. S. District Court, Southern District of California (Southern Division). William D. Wright, Plaintiff, vs. Pacific States Electric Co., Defendant. Memorandum. Filed Mar. 17, 1921. Chas. N. Williams, Clerk. Fred E. Subith, Deputy. [184]

At a stated term, to wit, the January, 1921, Term, of the District Court of the United States of America, within and for the Southern Division of the Southern District of California, held at the courtroom thereof, in the city of Los Angeles, on Saturday, the second day of April, in the year of our Lord one thousand nine hundred and twenty-one—Present: The Honorable OSCAR A. TRIPPET, District Judge.

No. D.-68—EQUITY.

WM. D. WRIGHT,

Plaintiff,

vs.

PACIFIC STATES ELECTRIC CO.,

Defendant.

**Minutes of Court—April 2, 1921—Order Directing
Filing of Interlocutory Decree.**

An interlocutory decree in the above-entitled cause having this day been presented to the Court for its signature, and by the Court signed, and ordered filed, and entered herein; and said interlocutory decree as so signed, being as follows, to wit:

United States District Court, Southern District of
California, Southern Division.

No. EQUITY—No. D-68.

WILLIAM D. WRIGHT,

Plaintiff,

vs.

PACIFIC STATES ELECTRIC CO.,

Defendant.

Interlocutory Decree.

This cause having come on to be heard and having been argued by counsel; now, therefore, upon consideration thereof, it is hereby **ORDERED, ADJUDGED AND DECREED** as follows, viz.:

I. That United States Letters Patent No. 1,214,486, issued January 30, 1917, to William D. Wright, plaintiff, are good and valid in law as to claims 6, 7, 8, and 9 thereof, and that [185] claims 1, 2, 3, 4 and 5 thereof are not involved in this cause.

II. That the plaintiff is the owner of said letters patent.

III. That the defendant has infringed claims 6, 7, 8 and 9 of said letters patent by selling devices like Plaintiff's Exhibit 2 herein.

IV. That said infringing devices like Plaintiff's Exhibit 2 herein have been manufactured by Landers, Frary & Clark, a corporation, of New Britain, Connecticut; that said Landers, Frary & Clark, has conducted, and controlled the defense of this suit and is the real defendant in interest therein.

V. That an injunction be issued against defendant Pacific States Electric Co. perpetually enjoining and restraining it, its officers, agents, attorneys, servants, employees and associates, and each and every of them, from hereafter selling or causing to be sold in any manner, directly or indirectly, any devices like Plaintiff's Exhibit 2 herein or any device containing or embodying the invention patented in or by claims 6, 7, 8 and 9 or either thereof

said letters patent or any device capable of being used in infringement thereof, and from directly or indirectly infringing upon either or any of claims 6, 7, 8 and 9 of said letters patent in any manner whatsoever.

VI. That plaintiff recover from defendant Pacific States Electric Co. the profits and damages received from said defendant's infringement of said letters patent.

VII. That an accounting be had to determine the profits and damages received from the infringement by said defendant.

VIII. That this cause be referred to _____, Esq., as master *pro hac vice* to ascertain such profits and damages and report the same to the Court; and that the matter of increased damages be deferred until after the master's report is returned.

IX. That plaintiff have and recover judgment against defendant [186] Pacific States Electric Co. for the sum of \$137.10 plaintiff's costs and disbursements herein.

Dated April 2, 1921.

TRIPPET,
District Judge.

Approved as to form pursuant to Court Rule 45.

JOHN R. BARTLETT,
RAYMOND IVES BLAKESLEE,
Solicitors for Defendant.

Decree entered and recorded April 2, 1921.

CHAS. N. WILLIAMS,
Clerk.

Fred E. Subith,
Deputy Clerk.

An assignment of errors and a petition for appeal from the interlocutory decree granted herein having been presented and filed in open court by Raymond Ives Blakeslee, attorney for defendant, an order allowing said appeal to the Circuit Court of Appeals for the Ninth Circuit is now signed and filed in open court. [187]

In the United States District Court, Southern District of California, Southern Division.

IN EQUITY—D-68.

WILLIAM D. WRIGHT,

Plaintiff,

vs.

PACIFIC STATES ELECTRIC CO.,

Defendant.

Stipulation for Order Staying Costs and Disbursements Judgment, Accounting and Injunction, Until Supersedeas Bond Filed, Pursuant to Order Signed April 2, 1921.

It is hereby stipulated and agreed by and between counsel for the respective parties to the above-entitled cause that an order may be made staying execution of any judgment for costs of this court, staying accounting and staying issuing of injunction, all pursuant to order of this court signed April 2, 1921, providing for supersedeas in these respects, until the filing by defendant of supersedeas bond as provided in said order.

Dated Los Angeles, Cal., April 2, 1921.

FREDERICK S. LYON,
LEONARD S. LYON,

Solicitors and Counsel for Plaintiff.

RAYMOND IVES BLAKESLEE,
JOHN P. BARTLETT,

Solicitors and Counsel for Defendant.

It is so ordered.

BLEDSON,
District Judge. [188]

[Endorsed]: In Equity—No. D-68. In the United States District Court, Southern District of California, Southern Division. William D. Wright, Plaintiff, vs. Pacific States Electric Co., Defendant. Stipulation for Order Staying Costs and Disbursements Judgment, Accounting and Injunction, Until Supersedeas Bond Filed, Pursuant to Order Signed April 2, 1921. Filed Apr. 4, 1921. Chas. N. Williams, Clerk. Fred E. Subith, Deputy. Raymond Ives Blakeslee, 727-30 California Building, Los Angeles, Cal., Solicitor for Defendant. [189]

In the United States District Court, Southern District of California, Southern Division.

IN EQUITY—No. D-68.

WILLIAM D. WRIGHT,

Plaintiff,

vs.

PACIFIC STATES ELECTRIC CO.,

Defendant.

**Stipulation Regarding Filing and Obtaining
Approval of Appeal and Supersedeas Bond.**

Inasmuch as unavoidable delay has been caused in obtaining the figures of sales for the verified statement required to be filed herein as a basis for calculating amount of defendant's appeal and supersedeas bond, and as the Honorable Judge who allowed the appeal of defendant herein is absent from the city, it is hereby stipulated and agreed that if defendant will file the verified statement referred to this day, that the said bond shall be deemed approved and filed within proper time for all purposes and respects in this case, if approved by said Honorable Judge and filed on or before the 10th day of May, 1921.

Dated Los Angeles, Cal., April 22, 1921.

FREDERICK S. LYON,
LEONARD S. LYON,

Solicitors and Counsel for Plaintiff.

JOHN P. BARTLETT,

RAYMOND IVES BLAKESLEE,

Solicitors and Counsel for Defendant. [190]

[Endorsed]: In Equity—No. D-68. In the United States District Court, Southern District of California, Southern Division. William D. Wright, Plaintiff, vs. Pacific States Electric Co., Defendant. Stipulation Regarding Filing and Obtaining Approval of Appeal and Supersedeas Bond. Received copy of within this 22d day of April, 1921. Frederick S. Lyon, Leonard S. Lyon, Attorneys for Plaintiff. Filed Apr. 22, 1921. Chas. N. Williams, Clerk. By P. W. Kerr, Deputy Clerk. Raymond

Ives Blakeslee, 727-30 California Building, Los Angeles, Cal., Solicitor for Defendant. [191]

United States District Court, Southern District of California, Southern Division.

IN EQUITY—No. —.

WILLIAM D. WRIGHT,

Plaintiff,

vs.

PACIFIC STATES ELECTRIC COMPANY,
Defendant.

**Interrogatories Addressed to William D. Wright,
Plaintiff.**

Interrogatory 1. State what claim or claims of the patent in suit plaintiff charges that defendant has infringed.

Interrogatory 2. With respect of each claim relied upon, what is the earliest date of invention plaintiff will claim.

Interrogatory 3. State by name and catalog number, or other identifying mark, what article of defendant's manufacture is claimed as the infringing structure.

PACIFIC STATES ELECTRIC CO.,

By H. E. HART,

Counsel.

LUCIUS P. GREEN,

Solicitor. [192]

[Endorsed]: D-68. United States District Court, Southern Dist. of California, Southern Division. In

Equity—No. ——. William D. Wright, Plaintiff, vs. Pacific States Electric Co., Defendant. Interrogatories. Filed Jul. 3, 1918. Chas. N. Williams, Clerk. By R. S. Zimmerman, Deputy Clerk. Law Offices of Harrie E. Hart, Hartford, Conn., Connecticut Mutual Bldg. [193]

In the United States District Court, Southern District of California, Southern Division.

IN EQUITY—No. D.-68.

WILLIAM D. WRIGHT,

Plaintiff,

vs.

PACIFIC STATES ELECTRIC CO.,

Defendant.

Petition for Appeal.

The defendant above named in the above-entitled suit conceiving itself aggrieved by the interlocutory decree made and entered in the above-entitled suit, April 2, 1921, granting an injunction as in said interlocutory decree set forth, against defendant, comes now by John P. Bartlett and Raymond Ives Blakeslee, its solicitors and counsel, and petitions said Court for an order allowing defendant to prosecute an appeal from said Interlocutory Decree to the Honorable the United States Circuit Court of Appeals for the Ninth Circuit, under and according to the laws of the United States in that behalf made and provided, and also for an order fixing the sum of security which defendant shall give and furnish upon said appeal, the same to operate as a super-

sedes of and to suspend the issuance of an injunction ordered by said interlocutory decree, and as a supersedeas of the judgment for costs and disbursements provided for in said interlocutory decree, and to operate as a supersedeas of and to suspend the accounting of damages and profits provided for in said interlocutory decree, all pending the determination of said appeal, by said United States Circuit Court of Appeals for the Ninth Circuit, and any appeal thereafter allowed and taken to the Supreme Court of the United States.

JOHN P. BARTLETT,

RAYMOND IVES BLAKESLEE,

Solicitors for Defendant. [194]

[Endorsed]: No. D-68—In Equity. In the United States District Court, Southern District of California, Southern Division. William D. Wright, Plaintiff, vs. Pacific States Electric Co., Defendant. Petition for Appeal. Filed Apr. 2, 1921. Chas. N. Williams, Clerk. Fred E. Subith, Deputy. Raymond Ives Blakeslee, 727-30 California Building, Los Angeles, Cal., Solicitor for Defendant. [195]

In the United States District Court, Southern District of California, Southern Division.

IN EQUITY—No. D-68.

WILLIAM D. WRIGHT,

Plaintiff,

vs.

PACIFIC STATES ELECTRIC CO.,

Defendant.

Assignments of Errors.

Comes now defendant above named, and specifies and assigns the following as the errors upon which it will rely upon its appeal to the United States Circuit Court of Appeals for the Ninth Circuit from the interlocutory decree of April 2, 1921, granting an injunction against defendant as in said interlocutory decree set forth; that said District Court of the United States for the Southern District of California, Southern Division, in making and entering said Decree erred as follows:

1. In adjudging and decreeing that claims 6, 7, 8 and 9 of the Wright patent in suit No. 1,214,486, or said patent in any respect, is or are good and valid in law or in any respect.

2. In adjudging and decreeing that said patent or any claims thereof has been or is infringed by defendant in any manner whatsoever, as referred to in paragraph 3 of said interlocutory decree, or in any manner or by any device sold by defendant.

3. In not adjudging and decreeing that said Wright letters patent and claims 6, 7, 8 and 9 thereof are void.

4. In not adjudging and decreeing that defendant has not infringed upon said Wright patent in suit or the claims thereof [196] in any manner whatsoever.

5. In not ordering, adjudging and decreeing that the bill of complaint in said cause be dismissed with costs and disbursements to defendant.

6. In not ordering, adjudging and decreeing that said Wright letters patent in suit and claims 6, 7, 8

and 9 thereof, were void for want of invention.

7. In not ordering, adjudging and decreeing that said Wright letters patent in suit and claims 6, 7, 8 and 9 thereof, were void because anticipated, that is, for want of novelty.

8. In not ordering, adjudging and decreeing that said claims 6, 7, 8 and 9 of said Wright letters patent in suit are void for inoperativeness.

9. In not ordering, adjudging and decreeing that said Wright letters patent in suit and claims 6, 7, 8 and 9 thereof are void because the subjects of same are not disclosed in the specification and not disclosed in the drawings of said Wright letters patent in suit as required by section 4888 United States Revised Statutes.

10. In not ordering, adjudging and decreeing that the subjects of claims 6, 7, 8 and 9 are void as being the results of mere mechanical skill, when viewed in the light of devices and things of which the public had general knowledge and as to which publication had been made prior to the pretended date of the pretended invention of said Wright letters patent in suit.

11. In ordering, adjudging and decreeing that defendant be restrained and enjoined either as set forth in paragraph 5 of said interlocutory decree or otherwise, or at all.

12. In ordering adjudging and decreeing that plaintiff recover from the defendant any profits or damages received from said defendant's infringement or said Wright letters patent [197] and in ordering any accounting to that end.

13. In ordering, adjudging and decreeing that plaintiff have and recover from the defendant plaintiff's costs and disbursements in said cause.

14. In ordering, adjudging and decreeing that the plaintiff is the owner of said Wright letters patent in suit.

In order that the foregoing assignments of error may be and appear of record, defendant presents the same to the Court and prays that such disposition may be made thereof as is in accordance with the laws of the United States.

WHEREFORE, the said defendant prays that the said interlocutory decree of this Court made and entered on April 2, 1921, and the injunction thereby granted and ordered, be reversed and set aside, in each and every particular and respect, and the said Court be directed to enter a decree ordering and adjudging the said Wright letters patent to be void and not to have been infringed by this defendant, and that the bill of complaint in this cause be dismissed at the cost and expense of plaintiff, and for such other and further relief and such further proceedings in this court as by the Honorable United States Circuit Court of Appeals for the Ninth Circuit may be found meet and proper and may be ordered.

All of which is respectfully submitted.

JOHN P. BARTLETT,

RAYMOND IVES BLAKESLEE,

Solicitors and Counsel for Defendant. [198]

[Endorsed]: No. D-68—In Equity. In the United States District Court, Southern District of Cali-

fornia, Southern Division. William D. Wright, Plaintiff, vs. Pacific States Electric Co., Defendant. Assignments of Errors. Filed Apr. 2, 1921. Chas. N. Williams, Clerk. Fred E. Subith, Deputy. Raymond Ives Blakeslee, 727-30 California Building, Los Angeles, Cal., Solicitor for Defendant. [199]

In the United States District Court, Southern District of California, Southern Division.

IN EQUITY—No. D-68.

WILLIAM D. WRIGHT,

Plaintiff,

vs.

PACIFIC STATES ELECTRIC CO.,

Defendant.

**Order Allowing Appeal and Fixing Amount of Bond
and Providing for Supersedeas.**

In the above-entitled suit above-named defendant having filed its petition for an order allowing an appeal from the interlocutory decree of this Court made and entered in this suit on April 2, 1921, granting an injunction against defendant, together with assignments of error:

Now, on motion of Raymond Ives Blakeslee, Esq., solicitor and of counsel for defendant, it is ordered that said appeal be and hereby is allowed to defendant, to the United States Circuit Court of Appeals for the Ninth Circuit, from said interlocutory decree granting and allowing an injunction

against defendant, and that the amount of defendant's bond on said appeal be in a sum calculated at eight dollars (\$8.00) per infringing device, sold by defendant above named, the number of which infringing devices are to be shown in a verified statement to be filed herein by defendant within twenty (20) days from date of this order, such security to act likewise as a supersedeas of any judgment for costs and disbursements which may be entered against said defendant in accordance with said decree, and to operate likewise as a supersedeas of and suspend the issuance of any injunction ordered by said interlocutory decree, and as a supersedeas of [200] and to suspend the accounting of profits and damages provided for in said interlocutory decree, pending the determination of said appeal by said United States Circuit Court of Appeals for the Ninth Circuit, and pending the determination of any appeal thereafter allowed and taken to the Supreme Court of the United States.

It is further provided that pending the determination of any such appeal, defendant shall file herein, each three (3) months after the filing of the first verified statement hereinabove mentioned, a similar statement showing the sales by said defendant of said infringing devices during the preceding period of three months, and that defendant shall file in connection with each such additional statement, and at the same time each is filed, a further or additional bond in a sum calculated at eight dollars (\$8.00) per infringing device therein shown to have been so sold by said defendant, all as a condition

for further staying of the issuance of the aforementioned injunction, and as a further condition for superseding of any said judgment for costs and disbursements and further superseding and staying said accounting of profits and damages.

It is further ordered that the conditions of said first named bond shall be the conditions that defendant Pacific States Electric Co. shall pay to plaintiff, William D. Wright, his heirs, assigns and legal representatives, any judgment for costs and disbursements which may be entered against said defendant in accordance with said decree, and all profits and damages which may be found or assessed against defendant by reason of the suspending of the issuance of said injunction, and all profits and damages heretofore accrued; and upon the giving of such bond with good and sufficient security to be approved by the Court, said writ of injunction shall not issue [201] until the determination of said appeals, nor shall said accounting of profits and damages be proceeded with until the determination of said appeals, nor shall any execution be issued against defendant for any judgment for costs and disbursements which may be entered against said defendant in accordance with said decree, until the determination of said appeals.

It is further ordered that upon the filing of such first named bond a certified transcript of the records and proceedings herein, in accordance with the statutes and Equity Rules, be forthwith transmitted to said United States Circuit Court of Appeals for the

Ninth Circuit, together with all the exhibits on file in this case.

Dated April 2, 1921.

TRIPPET,
District Judge.

Approved as to form, as provided in Rule 45.

FREDERICK S. LYON,
LEONARD S. LYON,
Solicitor and Counsel for Plaintiff. [202]

[Endorsed]: No. D-68—In Equity. In the United States District Court, Southern District of California, Southern Division. William D. Wright, Plaintiff, vs. Pacific States Electric Co., Defendant. Order Allowing Appeal and Fixing Amount of Bond and Providing for Supersedeas. Filed Apr. 2, 1921. Chas. N. Williams, Clerk. Fred E. Subith, Deputy. Raymond Ives Blakeslee, 727-30 California Building, Los Angeles, Cal., Solicitor for Defendant. [203]

In the United States District Court, Southern District of California, Southern Division.

IN EQUITY—No. D-68.

WILLIAM D. WRIGHT,

Plaintiff,

vs.

PACIFIC STATES ELECTRIC CO.,

Defendant.

**Verified Statement of Defendant Pursuant to Order
of Court of April 2, 1921.**

United States of America,
State of California,
County of Los Angeles,—ss.

F. J. Airey, being duly sworn according to law, says: That he is district manager, with offices at Los Angeles, California, for defendant Pacific States Electric Co., above named, with offices at 236 South Los Angeles Street, in said city of Los Angeles; that an examination of the books, records and accounts of defendant discloses that defendant has sold during the period of time commencing January 30, 1917, and ending April 2, 1921, 1120 waffle-irons or infringing devices, or devices decreed to be infringing devices pursuant to the interlocutory decree made and entered in the above-entitled cause April 2, 1921; and affiant states that such figures of sales are true, accurate and correct to the best of his knowledge, information and belief

FRANK J. AIREY.

Subscribed and sworn to before me this 22d day of April, 1921.

[Seal] DELPHINE DICKSON,
Notary Public in and for the County of Los Angeles, State of California. [204]

[Endorsed]: In Equity—No. D-68. In the United States District Court, Southern District of California, Southern Division. William D. Wright, Plaintiff, vs. Pacific States Electric Co., Defendant. Verified Statement of Defendant Pursuant to Order

of Court of April 2, 1921. Received copy of within statement this 22d day of April, 1921. Frederick S. Lyon, Leonard S. Lyon, Attorneys for Plaintiff. Filed Apr. 22, 1921. Chas. N. Williams, Clerk. P. W. Kerr, Deputy. Raymond Ives Blakeslee, 727-730 California Building, Los Angeles, Cal., Solicitor for Defendant. [205]

In the United States District Court, Southern District of California, Southern Division.

IN EQUITY—No. D-68.

WILLIAM D. WRIGHT,

Plaintiff-Appellee,

vs.

PACIFIC STATES ELECTRIC CO.,

Defendant-Appellant.

**Stipulation as to Minute Order and Appeal and
Supersedeas Bond.**

The appeal heretofore allowed to defendant-appellant in this cause having been taken in open court, and the petition and assignments of error having been filed in open court, and the order allowing appeal having been signed in open court, at the time that the decree and order appealed from was signed, to wit, April 2, 1921, and the deputy clerk in attendance having omitted to enter in the order-book any minute order thereof, it is stipulated by and between the parties to this cause, by their respective solicitors, that the clerk may enter in said order-book as of the date of April 2, 1921, an order, *nunc*

pro tunc, or otherwise, setting forth the above-stated facts.

And it is further stipulated and agreed that an order, *nunc pro tunc*, may be entered that the approval of the bond of defendant-appellant on appeal and for supersedeas may bear date of May 2, 1921, where such date was omitted.

These stipulations are entered into subject to approval by the Court.

Dated Los Angeles, Cal., May 14, 1921.

FREDERICK S. LYON,

LEONARD S. LYON,

Solicitors and Counsel for Plaintiff-Appellee.

RAYMOND IVES BLAKESLEE,

JOHN P. BARTLETT,

Solicitors and Counsel for Defendant-Appellant.

Approved and so ordered.

TRIPPET,

Judge. [206]

[Endorsed]: In Equity—No. D-68. In the United States District Court, Southern District of California, Southern Division. William D. Wright, Plaintiff-Appellee, vs. Pacific States Electric Co., Defendant-Appellant. Stipulation and Order as to Minute Order and Appeal and Supersedeas Bond Filed May 16, 1921. Chas. N. Williams, Clerk. By R. S. Zimmerman, Deputy Clerk. Raymond Ives Blakeslee, 727-30 California Building, Los Angeles, Cal., Solicitor for Defendant-Appellant [207]

In the United States District Court, Southern District of California, Southern Division.

IN EQUITY—No. D-68.

WILLIAM D. WRIGHT,

Plaintiff,

vs.

PACIFIC STATES ELECTRIC CO.,

Defendant.

Bond on Appeal.

KNOW ALL MEN BY THESE PRESENTS:
That United States Fidelity & Guaranty Company, a corporation of the State of Maryland, and duly licensed to transact business in the State of California, is held and firmly bound unto William D. Wright, plaintiff in the above-entitled suit, in the penal sum of Eight Thousand Nine Hundred Sixty Dollars (\$8,960.00), to be paid to said William D. Wright, his heirs, assigns and legal representatives, for which payment well and truly to be made, the United States Fidelity & Guaranty Company binds itself, its successors and assigns, firmly by these presents.

Sealed with its corporate seal and dated this 25th day of April, 1921.

The condition of this obligation is such that whereas Pacific States Electric Co., defendant in the above-entitled suit, is taking an appeal to the United States Circuit Court of Appeals for the Ninth Circuit, to reverse the interlocutory order or decree made, rendered and entered on April 2, 1921,

by the District Court of the United States, for the Southern District of California, Southern Division, in the above-entitled cause, ordering, adjudging and decreeing that defendant be restrained and enjoined as in said Interlocutory Decree set forth;

AND WHEREAS, said District Court of the United States for [208] the Southern District of California, Southern Division, has fixed the amount of defendant's bond on said appeal in the sum of Eight Thousand Nine Hundred Sixty Dollars (\$8,960.00), and has ordered and directed that the issuance of said injunction be suspended until the determination of said appeal, and pending the determination of any appeal thereafter allowed and taken to the Supreme Court of the United States, and has ordered and directed that said bond shall act as a supersedeas of any judgment for costs and disbursements which may be entered against said defendant in accordance with said decree pending the determination of any said appeal, and has ordered that said bond shall likewise act as a supersedeas and stay of any accounting of profits and damages as ordered by said interlocutory decree,—upon condition that defendant give a bond in security in said sum of Eight Thousand Nine Hundred Sixty Dollars (\$8,960.00), to serve likewise as defendant's said bond on said appeal, that the defendant will well and truly pay to William D. Wright, plaintiff, his heirs, assigns and legal representatives, any judgment for costs and disbursements or for accrued profits and damages which may be entered against said defendant in accordance with said de-

cree, and any and all damages and profits which may be found or assessed against defendant by reason of the suspending of the issuance of said injunction;

NOW, THEREFORE, the condition of this obligation is such that if the above-named defendant shall prosecute its said appeal and any appeal allowed and taken to the Supreme Court of the United States to effect, and answer all costs which may be adjudged against it if it fail to make good its any said appeal, and shall pay to said William D. Wright, plaintiff, his [209] heirs, assigns and legal representatives, any judgment for costs and disbursements which may be entered against said defendant in accordance with said decree, and shall pay to said William D. Wright, plaintiff, his heirs, assigns and legal representatives, all damages and profits which may be found or assessed against it, the defendant, by reason of the suspension of the issuance of said injunction, or which may have accrued, then this obligation shall be void; otherwise to remain in full force and effect.

UNITED STATES FIDELITY &
GUARANTY COMPANY,

By FRED W. HARRISON,
Attorney in Fact. (Seal)

Approved as to form, as provided in Rule 29.

FREDERICK S. LYON,
LEONARD S. LYON,
Solicitors for Plaintiff.

The premium charged for this bond is 89.60 per annum.

State of California

County of Los Angeles,—ss.

On this 25th day of April, in the year one thousand nine hundred and twenty-one, before me, Agnes L. Whyte, a notary public in and for said county and State, residing therein, duly commissioned and sworn, personally appeared Fred W. Harrison, known to me to be the duly authorized attorney in fact of the United States Fidelity and Guaranty Company, and the same person whose name is subscribed to the within instrument as the attorney in fact of said company, and the said Fred W. Harrison duly acknowledged to me that he subscribed the name of the United States Fidelity and Guaranty Company thereto [210] as surety and his own name as attorney in fact.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

[Seal]

AGNES L. WHYTE,

Notary Public in and for Los Angeles County, State of California.

Approved.

TRIPPET,
District Judge.

May, 1921. [211]

[Endorsed]: In Equity—No. D-68. In the United States District Court, Southern District of California, Southern Division. William D. Wright, Plaintiff, vs. Pacific States Electric Co., Defendant. Bond on Appeal. Filed May 6, 1921. Chas. N. Williams, Clerk. R. S. Zimmerman, Deputy. Ray-

mond Ives Blakeslee, 727-30 California Building,
Los Angeles, Cal., Solicitor for Defendant. [212]

In the United States District Court, Southern
District of California, Southern Division.

IN EQUITY—No. D-68.

WILLIAM D. WRIGHT,

Plaintiff-Appellee,

vs.

PACIFIC STATES ELECTRIC CO.,

Defendant-Appellant.

Praeipie for Transcript of Record.

To the Clerk of the Court:

Please prepare and certify transcript of record on appeal in the above-entitled cause, in accordance with the annexed stipulation and order filed herewith and certify the same to the United States Circuit Court of Appeals for the Ninth Circuit, pursuant to the order of this Court allowing appeal herein, together with all of the exhibits in this case.

RAYMOND IVES BLAKESLEE,

JOHN P. BARTLETT,

Solicitors for Defendant-Appellant. [213]

[Endorsed]: No. D-68—In Equity. In the United States District Court, Southern District of California, Southern Division. William D. Wright, Plaintiff-Appellee, vs. Pacific States Electric Co., Defendant-Appellant. Praeipie. Raymond Ives Blakeslee, 727-30 California Building, Los Angeles, Cal., Solicitor for Defendant-Appellant. [214]

In the United States District Court, Southern
District of California, Southern Division.

IN EQUITY—No. D-68.

WILLIAM D. WRIGHT,

Plaintiff-Appellee,

vs.

PACIFIC STATES ELECTRIC CO.,

Defendant-Appellant.

**Stipulation as to Transcript of Record on Appeal,
and Exhibits.**

The defendant having taken appeal in this suit, to the United States Circuit Court of Appeals for the Ninth Circuit, from the interlocutory decree of April 2, 1921,

IT IS HEREBY STIPULATED AND AGREED:

Both parties to this suit so desiring, the provisions of Equity Rules 75, 76 and 77, excepting the second paragraph of Rule 76, promulgated by the United States Supreme Court, applicable to appeals, are hereby waived; that the testimony in this cause be reproduced for the transcript in question and answer form, to preserve the exact form and substance of the same; and that the reporter who reported the proceedings on the trial herein file with the clerk of this court, for the transcript, and to be part thereof, at the expense of defendant, a certified copy of the testimony and proceedings adduced at the trial, as follows: Page 5, line 22 to the period in line 23; page 29, line 1 to the period in line 14; page 43, line 4, to the end of line 23; page

44, line 4 to the end of line 21; from the beginning of page 45 to page 114, end of line 17; page 116 to end of line 5, page 142; and all such testimony and [215] proceedings shall be reproduced for the Transcript in the exact form so reported.

That the transcript shall further include a true and correct copy of all the appeal papers, this stipulation and the order of the Court hereon, and the following papers and records in this cause on file in the office of the clerk of this Court, to wit:

The stipulation of April 22, 1921, regarding filing and obtaining approval of appeal and supersedeas bond; the stipulation of May 14, 1921, as to minute order and appeal and supersedeas bond and approval and order of the Court thereon; the minute order of April 2, 1921; the sworn statement of Frank J. Airey, filed April 22, 1921, pursuant to order allowing appeal; the stipulation and order thereon of April 2, 1921, for order staying costs and disbursements judgment, accounting and injunction, until supersedeas bond filed, pursuant to order signed April 2, 1921; the bill of complaint herein; the answer herein; the petition to reopen the case, etc., filed herein; the minute order of January 24, 1921, made and entered herein; the memorandum (opinion) of March 14, 1921, herein; the interlocutory decree herein; the receipt of January 24, 1921, filed herein; all the depositions filed herein, including the depositions of Kelsey, Lawler, Mann and Lamb, omitting the certificates on return and filing of same; the interrogatories filed July 3, 1918, and any answers thereto on file.

All the above shall constitute, together with the book of exhibits hereinafter mentioned, the transcript of record of said cause on appeal, upon which record said appeal shall be heard and determined, which transcript, except said book of exhibits, shall be certified by the clerk of this Court to the United States Circuit Court of Appeals for the Ninth Circuit. [216]

IT IS FURTHER STIPULATED AND
AGREED:

That all exhibits filed by either party herein shall be forthwith transmitted by the clerk of this Court at the expense of defendant, to the clerk of said United States Circuit Court of Appeals for the Ninth Circuit at San Francisco, for use on said appeal, and that there shall be printed at the expense of the defendant and under the supervision of the clerk of said United States Circuit Court of Appeals for the Ninth Circuit, in a book of exhibits which shall form a part of the printed transcript of record on appeal for use in said United States Circuit Court of Appeals, for the Ninth Circuit, on said appeal, copies of the following papers or documentary exhibits, to wit: Plaintiff's Exhibits Nos. 1, 4, 7, 9, 10 and 11; Defendant's Exhibits Nos. 2, 3, 11, 12, 13, 14, 15, 22 and 23; certified copy from records of United States Patent Office of papers and drawing re British letters patent to Crompton, et al., of May 19, 1893, No. 10,015, certificate dated Jany. 5, 1921, filed Jany. 24, 1921. Said book of exhibits shall be printed and copies thereof fur-

nished to counsel, pursuant to the Rules of said Circuit Court of Appeals for the Ninth Circuit.

RAYMOND IVES BLAKESLEE,

JOHN P. BARTLETT,

Solicitors and Counsel for Defendant-Appellant.

FREDERICK S. LYON,

LEONARD S. LYON,

Solicitors and Counsel for Plaintiff-Appellee.

It is so ordered this 7th day of June, 1921.

TRIPPET,

District Judge. [217]

[Endorsed]: No. D-68—In Equity. In the United States District Court, Southern District of California, Southern Division. William D. Wright, Plaintiff-Appellee, vs. Pacific States Electric Co., Defendant-Appellant. Stipulation as to Transcript of Record on Appeal, and Exhibits, and Order Thereon. Filed Jun. 7, 1921. Chas. N. Williams, Clerk. By P. W. Kerr, Deputy Clerk. Raymond Ives Blakeslee, 727-30 California Building, Los Angeles, Cal., Solicitor for Defendant-Appellant. [218]

In the District Court of the United States, in and
for the Southern District of California, South-
ern Division.

PACIFIC STATES ELECTRIC COMPANY,
Appellant,

vs.

WILLIAM D. WRIGHT,
Appellee.

**Certificate of Clerk U. S. District Court to
Transcript of Record.**

I, Chas. N. Williams, Clerk of the United States District Court for the Southern District of California, do hereby certify the foregoing volume containing 218 pages, numbered from 1 to 218, inclusive, to be a full, true and correct copy of the bill of complaint, answer, evidence in behalf of the defendant taken at Boston, Massachusetts, on January 14, 1920, evidence in behalf of defendant taken at Hartford, Connecticut, on January 15, 1920, testimony and proceedings on trial, petition to reopen case, etc., and notice thereof, minute order of January 24, 1921, directing that patent be filed and that defendant pay to plaintiff the sum of \$50.00, receipt for \$50.00 filed January 25, 1921, memorandum of the Court, dated March 14, 1921, minute order of April 2, 1921, directing filing of interlocutory decree, interlocutory decree, stipulation for order staying costs and disbursements, etc., stipulation regarding filing and obtaining approval of appeal and supersedeas bond, interrogatories

addressed to William D. Wright, petition for appeal, assignment of errors, order allowing appeal and fixing amount of bond and providing for supersedeas, verified statement of defendant pursuant to order of Court of April 2, 1921, stipulation as to minute order and appeal and supersedeas bond, bond on appeal, praecipe, stipulation as to transcript of record on appeal and exhibits [219] in the above and therein entitled cause, and that the same together constitute the record in said cause as specified in said praecipe filed in my office on behalf of the defendant and appellant, Pacific States Electric Company, by its attorney of record.

I DO FURTHER CERTIFY that the cost of the foregoing record is \$59.00, the amount whereof has been paid me by the Pacific States Electric Company, the appellant in said cause.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the seal of the District Court of the United States of America, in and for the Southern District of California, Southern Division, this eighth day of July, in the year of our Lord one thousand nine hundred and twenty-one, and of our Independence the one hundred and forty-sixth.

[Seal]

CHAS. N. WILLIAMS,

Clerk of the District Court of the United States, in
and for the Southern District of California.

By R. S. Zimmerman,

Deputy Clerk. [220]

[Endorsed]: No. 3715. United States Circuit Court of Appeals for the Ninth Circuit. Pacific States Electric Company, a Corporation, Appellant, vs. William D. Wright, Appellee. Transcript of Record. Upon Appeal from the United States District Court for the Southern District of California, Southern Division.

Filed July 9, 1921.

F. D. MONCKTON,

Clerk of the United States Circuit Court of Appeals for the Ninth Circuit.

By Paul P. O'Brien,
Deputy Clerk.

Plaintiff's Exhibit No. 1.

[Endorsed]: No. D-68. Wright v. Pacific. Pltf. Exhibit No. 1. Filed Dec. 7, 1920. Chas. N. Williams, Clerk. By Fred E. Subith, Deputy Clerk.

No. 3715. United States Circuit Court of Appeals for the Ninth Circuit. Filed Jul. 9, 1921. F. D. Monckton, Clerk.

No. 1214486

THE UNITED STATES OF AMERICA.

To All to Whom These Presents Shall Come:

WHEREAS WILLIAM D. WRIGHT, of San Diego, California, has presented to the Commissioner of Patents a petition praying for the grant of letters patent for an alleged new and useful improvement in

ELECTRIC COOKING APPARATUS,

a description of which invention is contained in the specification of which a copy is hereunto annexed and made a part hereof, and has complied with the various requirements of law in such cases made and provided, and

WHEREAS upon due examination made the said claimant is adjudged to be justly entitled to a patent under the law.

Now therefore these Letters Patent are to grant unto the said William D. Wright, his heirs or assigns, for the term of Seventeen years from the thirtieth day of January, one thousand nine hundred and seventeen, the exclusive right to make, use and vend the said invention throughout the United States and the Territories thereof.

IN TESTIMONY WHEREOF I have hereunto set my hand and caused the seal of the Patent Office to be affixed at the City of Washington this thirtieth day of January, in the year of our Lord one thousand nine hundred and seventeen, and of the Independence of the United States of America the one hundred and forty-first.

[Seal]

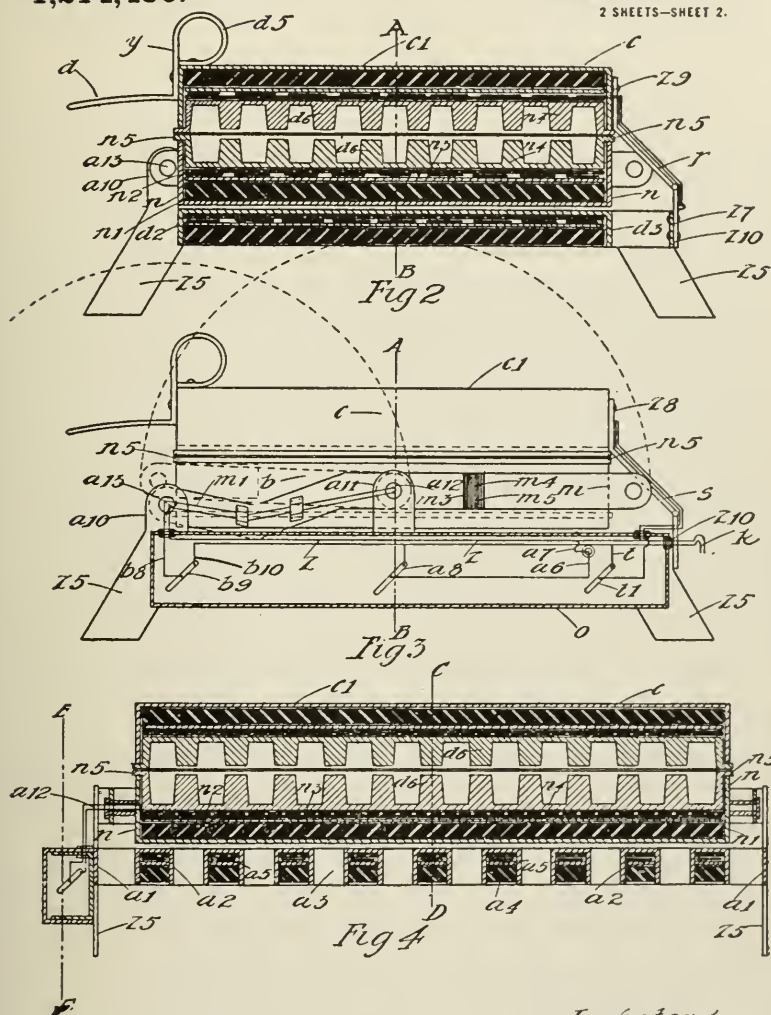
F. W. H. CLAY,
Acting Commissioner of Patents.

W. D. WRIGHT.
ELECTRIC COOKING APPARATUS.
APPLICATION FILED FEB. 5, 1916.

1,214,486.

Patented Jan. 30, 1917.

2 SHEETS—SHEET 2.

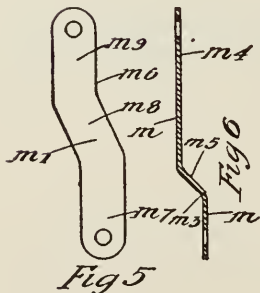
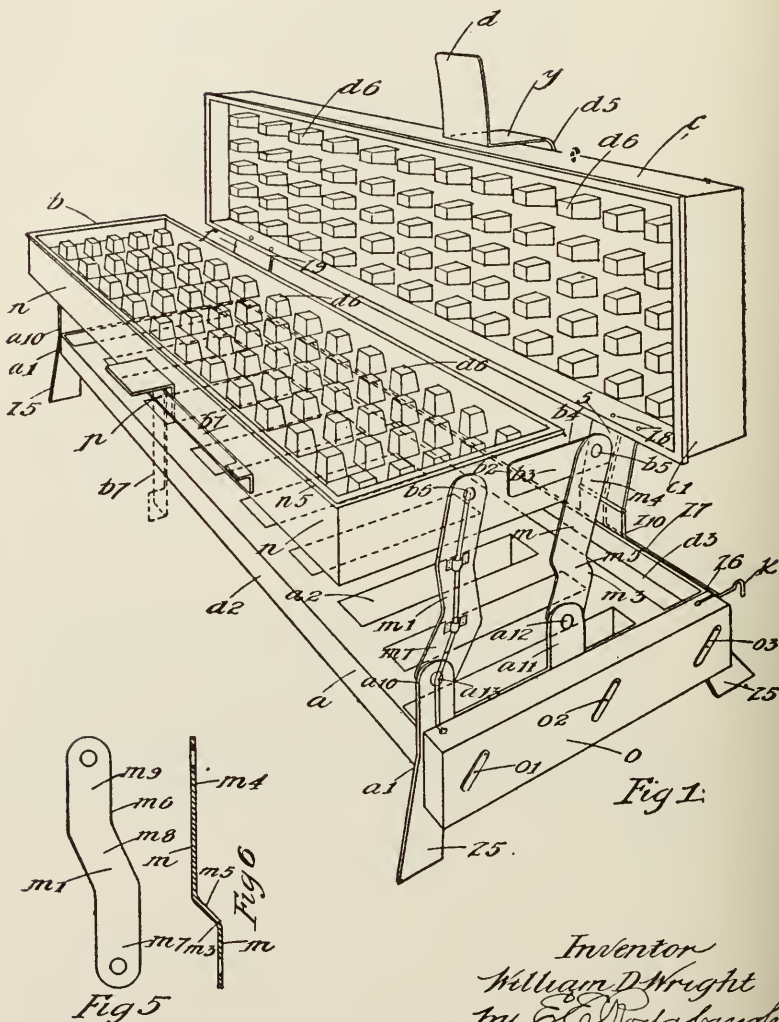


W. D. WRIGHT.
ELECTRIC COOKING APPARATUS.
APPLICATION FILED FEB. 5, 1916.

1,214,486.

Patented Jan. 30, 1917.

2 SHEETS--SHEET 1.



Inventor
William D. Wright
by E. H. Goddard
Attorney.

UNITED STATES PATENT OFFICE.

WILLIAM D. WRIGHT, OF SAN DIEGO, CALIFORNIA.

ELECTRIC COOKING APPARATUS.

1,214,486.

Specification of Letters Patent. Patented Jan. 30, 1917.

Application filed February 5, 1916. Serial No. 76,266.

to all whom it may concern:

Be it known that I, WILLIAM D. WRIGHT, a citizen of the United States, residing at San Diego, in the county of San Diego, State of California, have invented certain new and useful Improvements in Electric Cooking Apparatus, of which the following is a specification.

My invention relates to improvements in electric heating apparatus, more particularly to be used for grilling and waffle baking purposes, but which may also be used for any purpose of the ordinary electrically heated stove, and which may be folded up so as to occupy a small space when not in use, and which provides a large heating surface when unfolded.

One of the objects of my invention is to provide a device of the kind which is so constructed that certain sections thereof may be folded and thus economize in the use of electric current.

Another object of my invention is to provide a new and novel construction of waffle iron.

Another object is to provide a device of the kind that may be quickly converted from one use to a different use, as from a waffle iron to a grill, or to a device providing a large heating surface when required.

These objects and others will more clearly appear from the accompanying drawings which form a part of my specification.

In the drawings similar characters refer to similar parts throughout.

In the drawings, Figure 1 is a perspective view of my device, showing the top waffle member turned back and the other waffle member above the grill member; Fig. 2 is a vertical cross sectional view through C—D in Fig. 4; Fig. 3 is an end elevational view with a part of the casing removed to better illustrate the electric wiring, Fig. 4 is a vertical sectional view through A—B in Fig. 2, Fig. 5 is a detail view of one of the swinging arms, and Fig. 6 is a longitudinal sectional view of the other swinging arm.

The principal parts of my invention are the base or grill member *a*, the lower waffle member *b*, and the upper waffle member *c*.

The member *a* is supported at each end by a support *a*¹, which is provided with feet

²⁵ The member *a* is in shape an oblong rectangle provided with cross-pieces *a*² disposed at regular intervals throughout its length, which form an integral part of the side pieces *d*² and *d*³, leaving between said cross pieces open spaces *a*³. The cross pieces *a*² and the side pieces *d*² and *d*³ are all provided in their lower surfaces with deep longitudinal recesses *a*⁴, in each of which is placed a heating element *a*⁵ and electrically connected to one another. The elements *a*⁵ are electrically connected by means of wires *a*⁶ and *z* which enter at point *a*⁷, and the electric current into said member *a* is controlled by the switch *a*⁸.

The waffle member *b* is preferably made of aluminum and may be of any shape desired, but my preferred construction is an oblong rectangular shape. The member *b* is composed of an outer hollow casing *n* which is preferably made of pressed steel and is provided with a recess or chamber sufficiently deep to contain the non-conductor *n*¹, the heating element *n*², the non-conducting element *n*³ and the base portion of the metallic cooking surface member *n*⁴, all in the order in which I have enumerated same. The metallic cooking surface member *n*⁴ is provided on its circumference with a projecting shoulder *n*⁵ which rests upon and covers the edge of the casing *n*. The member *b* is enough shorter than the member *a* so that the arms *m* and *m*¹ on each end of the members *a* and *b* are of a length equal to the distance from *a*¹² to *a*¹³, and they are inclined toward the member *b* sufficiently to allow the member *b* to be inverted so that the cooking surface of member *b* may be brought directly above and face the member *a*, leaving a sufficient space between the members *a* and *b* to contain a slice of meat or other article for the purpose of grilling it.

The member *c* is identical with member *b* in structure, composition and arrangement of its parts, hence I shall not describe the member *c* in detail.

Both of the members *b* and *c* are provided on their cooking surfaces with projections *d*⁵ found in the ordinary waffle iron which are of a length so that they will have a space between their adjacent ends when the waffle surface of member *c* is placed on the surface

of member *b* and the edges of member *c* and *b* are resting against each other, as shown best in Figs. 2 and 4.

The casing *c*¹ of the member *c* corresponds in size, shape and form with the casing *n*. The casing *n* and its contents are securely fastened together so that the member *b* may be inverted without allowing any of its parts to become displaced, and the casing *c*¹ and its contents are similarly fastened together for the same purpose.

On each end of the member *a* the support *a*¹ is provided with an upwardly extending portion *a*¹⁰, and near the middle of said support *a*¹ there is provided a similar upwardly extending portion *a*¹¹ of the same height and size as *a*¹⁰.

Rigidly mounted on the casing *n* at *b*² is a support member *b*³ having a projected portion *b*⁴. Pivotally mounted on the support member *b*³ at *b*⁵, at its one end, and at its other end, similarly mounted at *a*¹² on the member *a*¹¹, is an arm member *m*. Pivotally mounted at its one end near the middle of the end portion of the casing *n* at *b*⁶, and at its other end pivotally mounted in the portion *a*¹⁰ at *a*¹³, is another swinging arm *m*¹. Arms similar to arms *m* and *m*¹ and of the same shape and length are similarly mounted on the support *a*¹ and casing *n* at the opposite end of the casing *n*. The arm *m* at *m*³ is bent so as to throw the upper end *m*⁴ thereof toward the support *b*³, thereby forming a shoulder *m*⁵ on which the arm *m*¹ at point *m*⁶ may rest when member *b* is inverted, and its waffle surface is placed adjacent to the cooking surface of member *a*. The arm *m*¹ is provided with a straight portion *m*⁷ which is pivoted on the support *a*¹⁰ at *a*¹³, a middle portion *m*⁸ which rises at an oblique angle to *m*⁷ and inclines toward the member *b* and the other end portion *m*⁹ which is parallel to the end of casing *n* and is pivoted to it at *b*⁶.

It will be noticed that if the member *b*, in the position shown in Fig. 1, be moved toward the left, the member *b* will be held in a level position by the arms *m* and *m*¹, and when the end of arm *m* at *b*⁵ drops to the horizontal plane of *a*¹² and *a*¹³ the extended edge of *b* may be caused to rise, so that the member *b* will revolve on the pivots *b*⁶ until the arm *m*¹ rests on the shoulder *m*⁵ of arm *m*, when the waffle surface of member *b* will be adjacent to and directly over the cooking surface of member *a*, and furnish a cooking surface to act on anything being cooked on member *a*. These arms *m* and *m*¹ are adapted to hold the member *b* at all times in a level position relatively to the upper surface of the member *a*, and to allow the member *b* to be swung to one side of the member *a* when so desired or to be reversed and placed over member *a*. A support *b*⁷ is pivotally mounted at *p* on the

side of the casing *n* which is adapted to drop into the position shown by the dotted lines in Fig. 1 to support the member *b* when it is not resting on the member *a*. The heating element in the member *b* is electrically connected to the wires *b*⁸, *b*¹⁰ and *z*, which are controlled by the switch *b*⁹. Firmly mounted on the support members *a*¹ at each end at *z*⁶ is another support member *z*⁷.

The member *c* is mounted, by means of hinges *r* and *s*, which are each mounted at one end on the casing *c*¹ at *z*⁸ and *z*⁹, and on the support *z*⁷ at *z*¹⁰. These hinges *r* and *s* are similar in size and shape, and are of a size to allow the cooking surface of the member *c*, when said member is turned back on said hinges, to be level with the top of member *a*. The member *c* is also provided on its side opposite to the hinged side with a member *y* having a straight projecting portion *d* adapted to facilitate the revolving of the member *c* on the hinges *r* and *s*. The member *y* is also provided with a curved portion *d*⁵ which is adapted to act as a support for the member *c* when it is turned on the hinges *r* and *s* to its reversed position.

The heating element in the member *c* is electrically connected to wires *z* and *t* which are controlled by the switch *t*¹. The wires connecting with the heating elements in all the parts are electrically connected to the main wires *k*. A hollow casing *o* is mounted on the support *a*¹ at the end of the member *a* where the electric conducting wires enter said member *a*. This casing *o* is adapted for concealing and protecting the said electric conducting wires. Mounted in said casing *o* are electric switch buttons *o*¹, *o*², and *o*³ respectively adapted to operate the switches *b*⁹, *a*⁸ and *t*¹.

In operation for baking waffles the members *b* and *c* are placed with member *b* resting on the member *a*, and the member *c*, in the positions shown in Fig. 1. The waffle batter is poured on the cooking surface of the member *b* after which the member *c* is revolved on the hinges *r* and *s* until its cooking surface is directly above the cooking surface of the member *b* and the edge of the cooking member *n*⁴ rests upon the edge of the similar cooking member of the member *b*. The electric current, by means of the switch buttons *o*¹ and *o*³ is turned into the heating elements *b* and *c* and the current through the member *a* may be switched off by means of the switch button *o*².

By reason of both waffle cooking surfaces being made of aluminum no lubrication is required on the said cooking surfaces and the waffles are cooked evenly on both sides at the same time.

If my device is desired to be used for a

grill, only, the member *c* may be revolved on the hinges *r* and *s* until the support *d*⁵ rests on the table or support on which the supports *a*¹ are resting, and the member *b*, by means of the arms *m* and *m*¹, may be swung to the other side of the member *a* until the support *b*⁷ rests on the table or other support on which the members *a*¹ are supported. The electric current may be cut out of the members *b* and *c* by the use of the switch buttons *o*¹ and *o*³, and then the member *a* may be used as a grill or for any other purpose by switching on the current of a said member by the use of the switch button *o*², or if it is desired to cook both sides of the article on member *a* at the same time, the member *b* may be revolved on pivots *b*⁵ and *b*⁶ until the arm *m*¹ rests on the shoulder *m*⁵ of arm *m* and the cooking surface of member *b* will be directly over member *a*, resting against, or very close to the article being cooked, and the electric current is then turned into the member *b* as well as member *a*.

In case it is desired to use my device for the general heating of cooking utensils or other articles where a large heating surface is required, the electric current may be turned into all three of the members *a*, *b* and *c* and the heating surface of all three of said members may be utilized.

Although I have described my improvements with considerable detail and with respect to certain particular forms of my invention, I do not desire to be limited to such details since many changes and modifications may well be made without departing from the spirit and scope of my invention in its broadest aspect.

Having fully described my improvements, what I claim as new and desire to secure by Letters Patent, is:

1. In a device of the kind described, a grill member mounted at each end on a support, a horizontal support parallel to said grill member mounted at each end of one of said supports, a plurality of swinging arms each mounted at one end on extended portions of said first named supports, a waffle member pivotally mounted on the other ends of said swinging arms, a plurality of hinges each mounted at one end on said horizontal support, another waffle member mounted on the other ends of said hinges, electric heating elements mounted on said grill member and each of said waffle members, and electric conducting wires connected to each of said heating elements and an electric current supply.

2. In combination with an electric grill member, a plurality of swinging arms each pivotally mounted at one end on supports attached to said grill member, another electrically heated member revolvably mounted on the other ends of said swinging arms, said

arms being adapted to form a support for said revolving member and hold the cooking surface thereof in its reversed position at a certain distance from the cooking surface of said grill member, and electric means for heating said grill member and said revolvable member, electrically connected to an electric supply circuit.

3. In a device of the kind described, a pair of support members, a grill member mounted at each end on one of said support members, and provided with a plurality of longitudinal parallel portions and a plurality of parallel cross-pieces forming an integral part of said longitudinal parallel portions, each of said longitudinal portions and cross pieces provided in its lower surface with a longitudinal groove, an electric heating element mounted in each of said grooves and electrically connected to one another and to an electric current supply source, a plurality of swinging arms each revolvably mounted at one end on said supports, another member provided with a waffle-baking surface revolvably mounted on the ends of said swinging arms, an electric heating element mounted in said last named member, said member being adapted to be placed in its inverted position directly above and adjacent to said grill member, or to be swung to one side of said grill member.

4. In a device of the kind described, the combination of two electrically heated members each provided with an aluminum waffle baking surface, swinging arm members upon which one of said electrically heated members is revolvably mounted, and a support upon which the other electrically heated member is hinged, whereby said electrically heated members are adapted to be moved on said swinging arms and said hinges into a position where the waffle baking surfaces may be placed together so that the edges of said baking surfaces will rest firmly against each other.

5. A folding electric cooking apparatus comprising two support members, a grill member firmly mounted at each end on one of said support members, a plurality of swinging arms having one end of each arm pivotally mounted on said support members, a horizontal support member mounted at its ends on said first mentioned support members, another cooking member revolvably mounted on the other ends of said swinging arms, and a third cooking member mounted on a plurality of hinges each attached at its one end to the wall of said member and at its other end to said horizontal support member, all of said cooking members being adapted to be superposed one above the other in a compact form.

6. In a device of the class described, a pair of casings pivotally connected together, a waffle member provided with an aluminum

baking surface mounted in each of said casings so that each of said aluminum baking surfaces covers the upper edge of one of said casings, and means mounted in said casings between said casings and said waffle members for electrically heating said waffle members.

7. In a device of the class described, a pair of casings pivotally connected together, a waffle member provided with aluminum baking surfaces mounted in each of said casings so that their surfaces extend past the edges of said casings, means mounted in said casings between said casings and said waffle members for electrically heating said waffle members, consisting of an electrical heating element adjacent said waffle member and a non-conducting element spacing said electrical heating element from said casing.

8. In a device of the class described, a pair of box-shaped casings pivotally connected together so as to fold one upon the other, a waffle member mounted in each of said casings provided with outwardly extending flanges extending past the edges of said casing, whereby said waffle members are supported on the edge of said casing and spaced apart from the bottom thereof, and electrical

means mounted in the space between said waffle member and said casing for heating said waffle member.

9. In a device of the class described, a pair of box-shaped casings pivotally connected together so as to fold one upon the other, a waffle member mounted in each of said casings provided with outwardly extending flanges extending past the edges of said casing, whereby said waffle members are supported on the edge of said casing and spaced apart from the bottom thereof, electrical means mounted in the space between said waffle member and said casing for heating said waffle member, consisting of an electrical heating element adjacent said waffle member and a non-conducting element spacing said electrical heating element from said casing.

In testimony whereof, I have hereunto subscribed my name in the presence of two subscribing witnesses.

WILLIAM D. WRIGHT.

Witnesses:

INNICE C. CRANE,
MINNIE KORTE.

Copies of this patent may be obtained for five cents each, by addressing the "Commissioner of Patents, Washington, D. C."

Plaintiff's Exhibit No. 4.

[Endorsed]: No. D-68. Wright v. Pacific. Pltff. Exhibit No. 4. Filed Dec. 7, 1920. Chas. N. Williams, Clerk. By Fred E. Subith, Deputy Clerk.

No. 3715. United States Circuit Court of Appeals for the Ninth Circuit. Filed Jul. 9, 1921. F. D. Monckton, Clerk.

Dec. 9, 1915.

Mr. Frank C. Rapp,
Columbian Bldg.,
Washington, D. C.

Dear Sir:

We are enclosing herewith a pencil sketch of an electrically heated waffle-iron, together with a check and desire to have search made as to the patentability of same.

The device complete is shown in Figure 1 and you will notice that it has an upper member a and a lower member b. Figure 2 is a cross section of the upper member taken through the line A-B in Figure 1. The parts a and b are identical in structure and are hinged together by hinges c, allowing the member a to be turned back on the said hinges c, and rest on the small legs d. The member b is provided with similar legs e. Figure 3 is an enlarged view of the electrical heating element.

The principal parts of the device are the outer steel shell 1, the asbestos lining 2, the electric element 3, the aluminum waffle plate 4, showing corrugations k on the baking surface thereof, and the wires 5 for connecting the device to an electrical

supply wire. The parts in each of the members a and b are held together by a screw m. In operation the preparation to be baked is poured in the form of batter on the corrugated surface of the member b, and the member a is then turned down so that its corrugated surface comes almost in contact with the corrugated surface of the member b. The electric current is switched on and when the baking is completed the member a is turned back on the hinges c and the baked product removed.

It will be noticed in Fig. 3 that in case it is desired to have all the elements heated the conducting wire is connected at the point n and in case it is desired to only heat a portion of the element the wire is connected at o. When the electrical current is made at n the electrical current travels through wires represented by both the solid and the dotted lines, and when the connection is made at o the electrical current passes through the wires represented by the dotted lines only, thereby diminishing the amount of heated surface. The waffle-iron may be made up of as many units as desired.

Kindly return sketch with your report and let us hear from you at as early a date as possible.

Yours truly,

E. E. RODABAUGH.

EER-K.

10

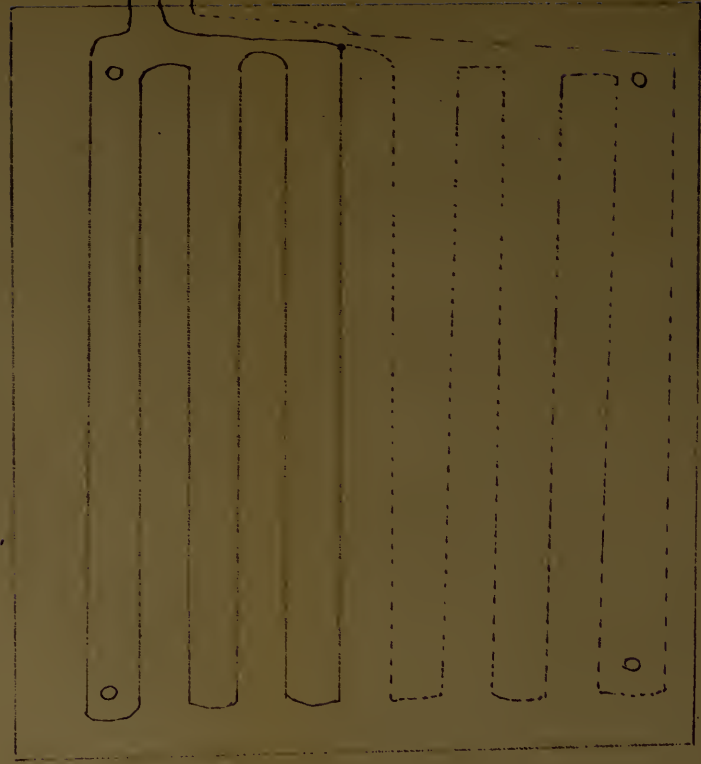
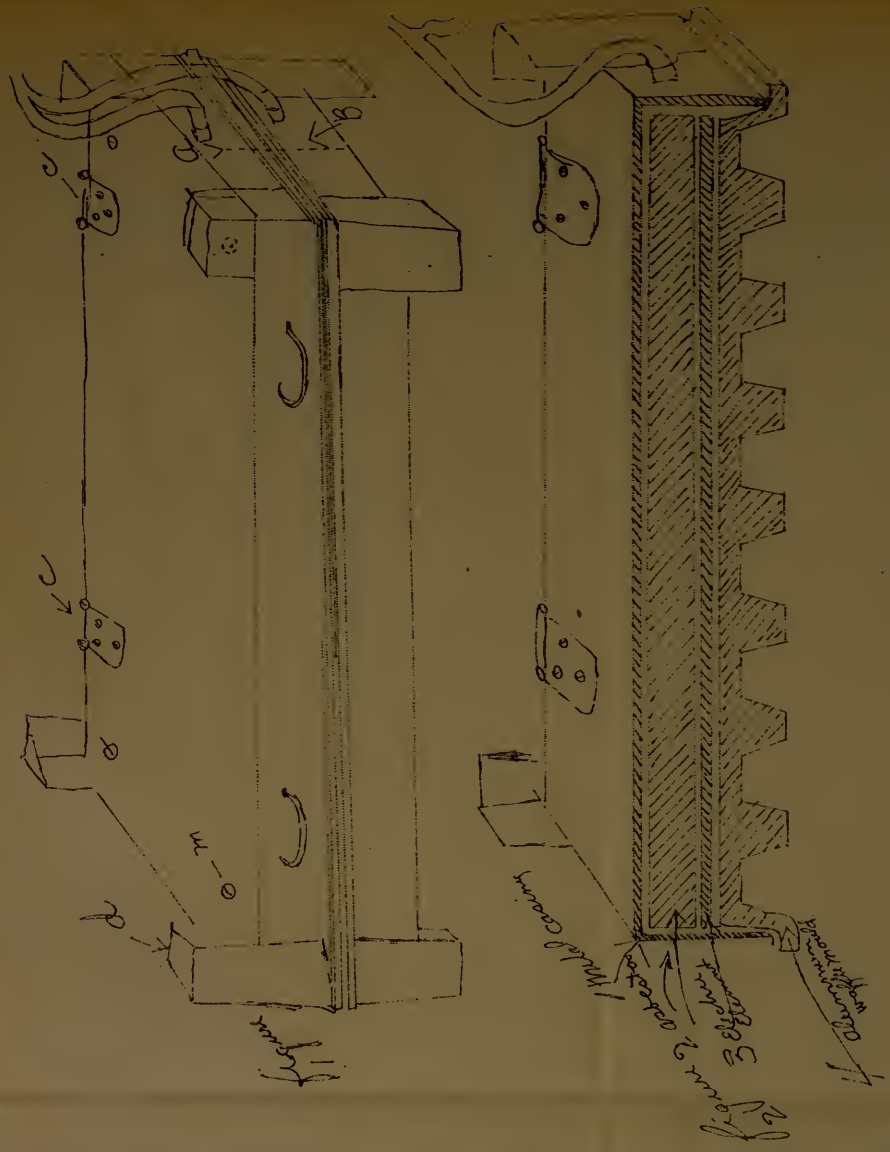


Fig. 3



Assembly made

Fig. 2

Fig. 2

Mold cavity

Fig. 1

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Plaintiff's Exhibit No. 7.

[Endorsed]: No. D-68. Wright v. Pacific. Pltf. Exhibit No. 7. Filed Dec. 7, 1920. Chas. N. Williams, Clerk. By Fred E. Subith, Deputy Clerk.

No. 3715. United States Circuit Court of Appeals for the Ninth Circuit. Filed Jul. 9, 1921. F. D. Monckton, Clerk.

[Billhead of Ingle Manufacturing Company.]

San Diego, Cal., January 14th, 1916.

W. D. Wright,
c/o Stahl & Sons.

Date.	Description.	Charges.	Credits.	Balance.
	6 prs Hinged Galv. Iron Cas-			
	ings 9"x10½" for Electric			
	Waffle Irons	12.15		
	Received payment in full			

INGLE M'F'G CO.
By J. SMITH, Jr.,
Sec'y.

Plaintiff's Exhibit No. 9.

[Endorsed]: No. D-68. Wright v. Pacific. Pltf. Exhibit No. 9. Filed Dec. 7, 1920. Chas. N. Williams, Clerk. By Fred E. Subith, Deputy Clerk.

No. 3715. United States Circuit Court of Appeals for the Ninth Circuit. Filed Jul. 9, 1921. F. D. Monckton, Clerk.

DEPARTMENT OF THE INTERIOR,
UNITED STATES PATENT OFFICE.

Received and Recorded on the 28th day of August, 1916, in Liber E 100, page 461 of Transfers of Patents.

IN TESTIMONY WHEREOF, I have caused the seal of the Patent Office to be hereunto affixed.

[Seal]

THOMAS EWING,
Commissioner of Patents.

Exd.

G. R. M.

ASSIGNMENT.

Whereas I, William D. Wright, of San Diego, County of San Diego, State of California, have made application for Letters Patent of the United States for an improvement in Electric Cooking Apparatus, which application was filed in the United States Patent Office February 5, 1916, the Serial No. of which is 76,266,

And, whereas, Quince C. Crane of San Diego, County of San Diego, State of California, is desirous of acquiring an interest in the same,

NOW THEREFORE, To all whom it may concern,

Be it known that for and in consideration of the sum of Ten (10.00) Dollars to me in hand paid, the receipt of which is hereby acknowledged, I, the said William D. Wright, have sold, assigned and transferred, and by these presents do sell, assign and transfer unto the said Quince C. Crane the undivided two-thirds ($\frac{2}{3}$) part of the whole right,

title and interest in and to said invention, and in and to the Letters Patent therefor aforesaid, the said undivided two-thirds ($\frac{2}{3}$) part to be held and enjoyed by the said Quince C. Crane for his own use and behoof, and for the use and behoof of his legal representatives, to the full end of the term for which said Letters Patent may be granted, as fully and entirely as the same would have been held and enjoyed by me had this assignment and sale not been made; and I do hereby authorize and request the Commissioner of Patents to issue the said Letters Patent jointly as herein provided to myself and the said Quince C. Crane, our heirs and assigns.

IN TESTIMONY WHEREOF I have hereunto set my hand and affixed my seal at San Diego, in the County of San Diego, State of California, this 12th day of August, 1916.

WILLIAM D. WRIGHT.

In the presence of:

E. E. RODABAUGH.

F. F. GRANT.

Recorded Aug. 28, 1916. U. S. Patent Office.

State of California,
County of San Diego,—ss.

On this 12th day of August, A. D. 1916, before me, F. F. Grant, a notary public in and for said county, residing therein, duly commissioned and sworn, personally appeared William D. Wright, known to me to be the person described in and whose name is subscribed to the within instrument, and acknowledged to me that he executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my notarial seal in my office in the County of San Diego, State of California, the day and year in this certificate first above written.

[Seal]

F. F. GRANT,

Notary Public, in and for said County of San Diego, State of California.

My commission expires: June 8, 1918.

[Ten Cents Internal Revenue Stamps Attached.
Canceled 8/12/16.]

Plaintiff's Exhibit No. 10.

[Endorsed]: No. D-68. Wright v. Pacific. Pltf. Exhibit No. 10. Filed Dec. 7, 1920. Chas. N. Williams, Clerk. By Fred E. Subith, Deputy Clerk.

No. 3715. United States Circuit Court of Appeals for the Ninth Circuit. Filed Jul. 9, 1921. F. D. Monckton, Clerk.

DEPARTMENT OF THE INTERIOR,
UNITED STATES PATENT OFFICE.

Received and Recorded on the 2d day of January, 1917, in Liber H 101, page 435 of Transfers of Patents.

IN TESTIMONY WHEREOF, I have caused the seal of the Patent Office to be hereunto affixed.

[Seal]

THOMAS EWING,

Exd.

Commissioner of Patents.

ANL.

ASSIGNMENT.

Whereas we, William D. Wright and Quince C. Crane of the City of San Diego, County of San Diego, State of California, are the owners of a certain invention in Electric Cooking Apparatus, filed February 5, 1916, Serial No. 76,266, upon which Letters Patent were allowed July 29, 1916, and,

Whereas, we the undersigned, are the sole owners of said patent and of all rights under the same, and,

Whereas the Crane & Wright Electric Company, a corporation duly organized and existing under the laws of the State of California, is desirous of acquiring the ownership and entire control of all of the interest in said patent,

NOW, THEREFORE, To all whom it may concern, be it known, That for and in consideration of the issue to us, or to the order of each of us, by said corporation of six hundred (600) shares of its capital stock, the receipt of certificates representing all of said stock amounting to the par value of Sixty Thousand (60,000.00) Dollars, is hereby admitted, we have this day sold, assigned and transferred, and by these presents do sell, assign and transfer, unto the said Crane & Wright Electric Company the entire right, title and interest in and to said Electric Cooking Apparatus and all improvements thereon or alterations therein and in and to the Letters Patent therefor; the same to be held and enjoyed by the said Crane & Wright Electric Company for its own exclusive use and benefit, and for the use and benefit of legal representatives, successors and assigns, to the full end of the term

for which said Letters Patent are, or may be, granted, as fully and entirely as the same would have been held and enjoyed by us had this assignment not been made.

IN TESTIMONY WHEREOF we have hereunto set our hands and seals at San Diego, California, this 25th day of September, 1916.

WILLIAM D. WRIGHT.

QUINCE C. CRANE.

Witnesses:

MINNIE KORTE.

EDGAR E. HENDEE.

State of California,
County of San Diego,—ss.

On this 25th day of September, A. D. 1916, before me, F. F. Grant, a Notary Public, in and for said County, residing therein, duly commissioned and sworn, personally appeared William D. Wright and Quince C. Crane, known to me to be the persons described in and whose names are subscribed to the within instrument and acknowledged to me that they executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my notarial seal in my office in the County of San Diego, State of California, the day and year in this certificate first above written.

[Seal]

F. F. GRANT,

Notary Public in and for the County of San Diego,
State of California.

Recorded Jan. 2, 1917. U. S. Patent Office.

Plaintiff's Exhibit No. 11.

[Endorsed]: No. D-68. Wright v. Pacific. Pltf. Exhibit No. 11. Filed Dec. 7, 1920. Chas. N. Williams, Clerk. By Fred E. Subith, Deputy Clerk.

No. 3715. United States Circuit Court of Appeals for the Ninth Circuit. Filed Jul. 9, 1921. F. D. Monckton, Clerk.

ASSIGNMENT.

Whereas, William D. Wright did, on the 5th day of February, 1916, file an application for letters patent for an electric cooking apparatus, serial No. 76,266, which application was thereafter issued in the United States Patent Office, January 30, 1917, patent No. 1,214,486, and,

Whereas, said William D. Wright did on the 12th day of August, 1916, sell, assign, and transfer an undivided two-thirds interest, in and to said application for letters patent, to Quince C. Crane, of San Diego, California, and,

Whereas, said William D. Wright and Quince C. Crane did, thereafter on the 25th day of September, 1916, sell, assign, and transfer, all of their right, title and interest (being the whole thereof), in and to said application for letters patent, to Crane and Wright Electric Company, a corporation duly organized under the laws of the State of California, and,

Whereas, the said Crane and Wright Electric Company, by its only surviving directors, as its trustees, namely: William D. Wright and Ovid E.

Mark, both of San Diego, California, in pursuance to settling up the affairs of said corporation, under and by virtue of the laws of the State of California, are desirous of disposing of its assets.

Now, therefore, for and in consideration of the sum of (\$1.00) one dollar, and other valuable considerations to it, in hand paid by the said William D. Wright, the said Crane and Wright Electric Company, does hereby, through its only surviving directors, as its trustees, sell, assign and transfer to the said William D. Wright, all its right, title, and interest (being the whole thereof), in and to said application for letters patent, and said patent and the invention covered thereby, together with all claims of every kind and character, arising out of past infringements of said letters patent and also all improvements on said letters patent or alterations therein, the same to be held and enjoyed by the said William D. Wright for his own exclusive use and benefit and for the use and benefit of the heirs, assigns, and legal representatives to the full end of the term for which said letters patent are or may be granted as fully and entirely as the same would have been held and enjoyed by said corporation, had this assignment not been made.

IN TESTIMONY WHEREOF we have hereunto set our hand and the seal of the corporation by its only surviving directors as trustees of said corporation, this 13th day of March, 1918.

CRANE AND WRIGHT ELECTRIC CO.

By WILLIAM D. WRIGHT,

OVID E. MARK,

Trustees.

Attest: In the presence of

ALBERT J. DUPLESSIS.

WM. A. CRANE.

Defendant's Exhibit No. 2.

[Endorsed]: U. S. Dist. Court, So. Dist. of California, So. Div. William D. Wright, Plaintiff, vs. Pacific States Electric Company, Defendant. Equity—No. D-68. Defendant's Exhibit No. 2. J. Morrill Fuller, Notary Public. My commission expires Jan. 19, 1923.

No. 3715. United States Circuit Court of Appeals for the Ninth Circuit. Filed Jul. 9, 1921. F. D. Monckton, Clerk.

ELECTRIC HEATING.

After many years' experience with all the known methods of making Electric Heaters, we have developed the fact that no *durable, reliable* heater can be made to operate at the temperatures required for ninety per cent of the work Electric Heaters are made for, unless the *electric heating element* is so arranged as to have *uniform* temperature, *uniform* and rapid conduction of heat to the thing to be heated, and that the heating element be sealed in place.

No method covers all these requirements except the "Enamel Method," by which the heating resistance is embedded and sealed in an insulating coat of enamel burned on to the article to be heated.

For eight years, continuous constant effort has

been put forth to develop the enamel and the resistance element to a state that would enable us to secure a product that under all ordinary conditions of use would prove durable for years. That this has been accomplished is evidenced by the fact that electric heaters are no longer a novelty, and that our product is in demand throughout the civilized world; our export business to-day is equal to the entire output nine years ago.

While having a large number of patents covering other methods permitting cheaper production cost, after exhaustive trials we have set them aside because they were wrong in principle and unsatisfactory in continued operation.

Recent improvements in enamel and the heating element have been material, and insure our product to be thoroughly reliable.

PLEASE NOTE.

All articles listed are "non-inductive," consequently are equally effective on direct or alternating circuits. It is *very* important that the *actual voltage* of the circuit be given when ordering.

All articles listed are made for standard voltages up to 120. Nearly all articles may be furnished for 220 volts.

All goods using 300 watts or less are supplied with flexible conductor and lamp-socket plugs.

In addition to the goods listed, we manufacture many special forms of Electric Heaters for a variety of machine tools and solicit correspondence for special applications of heat.

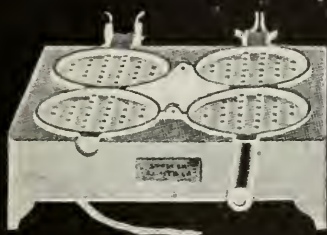
CATALOGUE NUMBER TWELVE, APRIL,
1904.

Displaces General Catalogue Number Seven.
Get New Quotations.

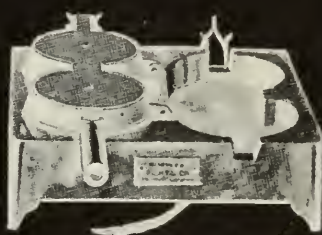
28

Simpler Electric Heating Co.

ELECTRIC WAFFLE IRONS.



No. 1400.



No. 1401.

Waffles are fine when properly made, and nowhere is electric heat more effective in producing a perfectly cooked product.

Both the top and bottom irons are uniformly heated, so that the irons cook the waffle from both sides at the same time, doing the work more quickly than is possible with irons over gas or coal. The irons do not have to be turned, and there is no unequal cooking. As both sides are exactly the same, a glance at the top of the waffle shows the condition of the underside, enabling the operator to get perfect results.

Each pair of irons bake two round waffles, five inches in diameter, at one time. The irons are sup-

ported in plain iron or nickel plated frames containing one pair of irons as listed. Those with nickel plated polished frames have nickel plated trays and are intended for use on the dining or serving table in the breakfast room. A novel though quite a proper and effective addition.

No.		WATTS.	PRICE.
1400	One pair. Size, two waffles. Plain black finish.....	500	\$ 7.50
1401	One pair. Polished nickel plated frame	500	10.00

Defendant's Exhibit No. 3.

[Endorsed]: U. S. Dist. Court, So. Dist. of California, So. Div. William D. Wright, Plaintiff, vs. Pacific States Electric Company, Defendant. Equity No. D-68. Defendant's Exhibit No. 3. J. Morrill Fuller, Notary Public. My Commission expires Jan. 19, 1923.

No. 3715. United States Circuit Court of Appeals for the Ninth Circuit. Filed Jul. 9, 1921. F. D. Monckton, Clerk.

vs. William D. Wright.

Jal. Pik Mfg. Co.	Type. Prov. R. I.	Test.	Rating.	Shipped.	Orders.	
		Volts. Amps.	Volts. Amps.			
2230	1	243	230	10- 8-08	73350	A
					60175	
	2	1400	110	11- 5-07	"	
	3	"	"	" " "	50747	
	4	1400	115	11- 6-07	59778	
	5	"	"	11- 7-07	"	
	6	"	"	" " "	50747	
	7	1401	115	11- 6-07	61976	
	8	1502-B	110	12-10-07	62781	
	9	"	"	12-31-07	65454	
2231	0	"	"	3-19-08	65088	
					66120	
	1	1502-B	110	3- 9-08	63198	
	2	"	"	4- 6-08	66120	
	3	1502-B	110	2- 1-08	61976	
	4	"	"	4- 6-08	65586	
	5	1502-B	110	12-10-07	65586	
	6	"	"	3-24-08	65586	
	7				60602	
	8	1502-B	110	3-24-08	1502-B-110-3-11-08-65162	
2232	9	1502-B	110	11- 7-07	67987	
	0	"	"	5-25-08	65162	

Serial. Park Mfg. Co.	Type. Prov. R. I.	Test.	Rating.	Shipped.	Orders.
		Volts. Amps.	Volts. Amps.		
1	1502-B		110	3-11-08	60203
2	1502-B		115	11-15-07	"
3	"		"	" " "	"
4	"		"	" " "	60869
5	1502-D		110	11-14-07	67910
6	"		115	5-23-08	60542
7	1502		110	11-14-07	60602
8	1502		110	11- 7-07	R 6-16-08-68573
9	"		"	11-25-07	61297
22483	0		"	11-14-07	60542

Serial. Park Mfg. Co.	Type. Prov. R. I.	Test.	Rating.	Shipped.	Orders.
		Volts. Amps.	Volts. Amps.		
24181	Hair dryer		110	5-19-08	67273
2					67725
3	1401		115	5-19-08	75300
4	"		"	12- 2-08	70413
5	239		220	7-18-08	"
6	"		"	"	71555
7	"		"	8-29-08	67704
8	1661		110	5-21-08	67570
9	240		20	"	67651

B

erial. rk Mfg. Co.	Type.	Test. Volts. Amps.	Rating. Volts. Amps.	Shipped.	Orders.
182 0	238		125	5-21-08	"
1	"		"	"	68133
2	1400		120	6- 4-08	70213
3	"		115	7-20-08	69062
4	1400		110	6-20-08	67487
5	Heater		125	5-22-08	67290
6	Vaccum Core		110	5-27-08	"
7	"		"	"	"
8	"		"	"	"
9	"		"	"	"
183 0	"		"	"	"
1	"		"	"	"
2	"		"	"	"
3	"		"	"	"
4	"		"	"	"
5	"		"	"	"
6	"		"	"	"
7	"		"	"	"
8	"		"	"	"
9	"		"	"	"
184 00	"		"	"	"

Serial. Park Mfg. Co.	Type. Prov. R. I.	Test.		Rating.		Shipped.	Orders.
		Volts.	Amps.	Volts.	Amps.		
							72130 C
24187	1	242		220		10-13-08	
							71052
	2	242		220		8- 6-08	R 1-10 #92734
							74853
	3	"		"		11- 9-08	
							78332 R. 5.26.13. 54321
	4	"		"		1-30-09	Reship. 4-29-09=81609
							68052 R-9-14-82637.
	5	Heater R 7-21- 08-70270		220		6- 5-08	R 6/10/09-#8347 R. 6.15.11 #1650
							68067
	6	1121-G		110		6- 5-08	
							68090
	7	Spec. Roll		110		6- 9-08	
							67679
	8	Heater		"		6-11-08	R 11-08. #74572
							"
	9	"		"		"	"
24188	0	"		"		"	
							68438
	1	1608		104		6- 6-08	R. 5.20.10 99035
	2						
							68091 R-9-30-14,-82738
	3	Laundry Roll		110		6-10-08	R 7-16-08-70254
							68367
	4	1667		220		7-28-08	
	5						
							68415
	6	241		230		6- 9-08	
							68416
	7	241		230		6- 9-08	R. 7.16.10 101097
							"
	8	"		"		"	
							68533
	9	1401		118		6-11-08	
							68418
24189	0	#9 Range		115		6-13-08	
							"
	1	1608		"		"	

Serial. Park Mfg. Co.	Type. Prov. R. I.	Test.		Rating.		Shipped.	Orders.
		Volts.	Amps.	Volts.	Amps.		
2							68533
3	1668			118		6-11-08	68549
4	1608			110		6-16-08	74639
5	1401			115		11-21-08	Reship 2-16-09—78985 67712
6	Gilding wheel			230		6-11-08	72089
7	242			220		9- 3-08	67711
8	Gilding wheel			110		6-11-08	"
9	"	"		"		"	"
4190	0	"	"	"		"	"

Serial. Park Mfg. Co.	Type. Prov. R. I.	Test.		Rating.		Shipped.	Orders.	D
		Volts.	Amps.	Volts.	Amps.			
							67711	
4190	1	Gilding wheel		110		6-11-08	68593	
	2	1661		115		6-18-08	68533	
	3	"		118		6-11-08	68499	
	4	1400		104		6-16-08	67388	
		Reship	6.20.11	16727.				
	5	Fr. hot iron		110		6-22-08	R. 12-7-09 #91514 68004	
	6	Heater		"		6-12-08		
	7						67680	R 6-13-11 #16070
	8	Heater		110		6-13-08	R. 3.26.10 95750 R 11-08 #74259	
							"	R 8-9-11-17943
	9	" R. 10.8.10. 3254		"		"	R. 2/10/10 91043	
24191	0	" R. 4.15.11. 12985		"		"	R. 12.19.11. 26820.	
							68187	
	1	238		115		"		

Serial. Park Mfg. Co.	Type. Prov. R. I.	Test.		Rating.		Shipped.	Orders.
		Volts.	Amps.	Volts.	Amps.		
							72931
2	"			"		10- 2-08	
							70823
3	238			115		7-30-08	
							71600
4	"			"		9- 1-08	R. 11.21.12 #43655
R-10-21-14	"	R. 4.13.11.	13321.	R. 8.14.11.	19436.		68187 R 11/4/09 #89549.
83899	5	238		115		6-18-08	R 3-09-79552 R 9-10-1882
		R. 11.5 10.	5033.				R 11.14.12 #42346
							68826
6	1669			115		6-18-08	
							"
7	"			"		"	
							68499
8	1608			104		6-16-08	
							68690
9	1640			250		6-19-08	
							68457
24192	0	241		250		6-18-08	R 12-08-75697 R 1-09-77593
							69442
1	"			220		6-27-08	R. 2.28.12 30403
							71555
2	"			"		8-29-08	
							"
3	"			"		"	
							"
4	"			"		"	
							"
5	"			"		"	
							71590
6	240			120		10- 1-08	
							68974
7	240			120		7- 1-08	
							71590
8	"			"		10- 1-08	
							"
9	"			"		"	
							68974
24193	0	240		120		7- 1-08	

Serial. Park Mfg. Co.	Type. Prov. R. I.	Test.		Rating.		Shipped.	Orders.
		Volts.	Amps.	Volts.	Amps.		
							69440
24199	1	402		110		7- 7-08	E
	2						
	3						
							69696
	4	240		110		7- 7-08	"
	5	"		"		"	"
							71555
	6	240		220		8-29-08	R. 4/15/10 97685
R 7-5-11-17277	R. 6.29.10		100627	R. 5-12-10	98613	69799	R. 3/11/10 S. V. 95826
							R. 9=10=2259
R 2-1-11-							
10168	7	240	R. 10.3.10.			7- 7-08	R. 11-19-10-6067 R. 11-08.
		3317		220			#74885 R. 9/7/09 #87098.
							69761
	8	Heater		"		7- 8-08	
							69464
	9	Laundry Roll core	125			7- 9-08	
24200	0	Laundry Roll core	220			7-10-08	69573 R. 11-8-13.—63373.
							R. 7-2-10 101139 R. 12-22-13—
							66680
							69845
	1	Laundry Roll core	110			7-15-08	
							69638
	2	1668		"		7-14-08	
							"
	3	"		"		"	
							69023
	4	1666		250		7-15-08	
							"
	5	"		"		"	
							"
	6	"		"		"	
							"
	7	"		"		"	
	8	"		"			
							69932
	9	1661		110		7-16-08	

Serial. Park Mfg. Co.	Type. Prov. R. I.	Test.		Rating.		Shipped.	Orders.
		Volts.	Amps.	Volts.	Amps.		
							69667
24201	0	240		52		7-16-08	
							70067
	1	1661	Heater	115		7-15-08	
							70299
	2	240		104		"	
							69576
	3	242		220		7-17-08	R. 2-14-11 10506
							69605
	4	240		110		7-18-08	
							"
	5	"		"		"	
							70808
	6	"		"		8- 5-08	
							"
	7	"		"		"	
							"
	8	"		"		"	
							70807
	9	240		110		7-29-08	
							70131
24202	0	1401		110		7-18-08	

Serial. Park Mfg. Co.	Type. Prov. R. I.	Test.		Rating.		Shipped.	Orders.
		Volts.	Amps.	Volts.	Amps.		
							70070
24202	1	1401		115		7-21-08	
							69605
	2	240		110		7-18-08	
							"
	3	"		"		"	
							"
	4	"		"		"	
							70808
	5	"		"		8- 5-08	
							"
	6	"		"		"	
							69605
	7	240		110		7-18-08	

Serial. Park Mfg. Co.	Type. Prov. R. I.	Test.		Rating.		Shipped.	Orders.
		Volts.	Amps.	Volts.	Amps.		
							70063
	Laundry	Roll core	220			3-17-13	49509.—Repair.
8	Heater		230			"	
							71694
9	240	R. 9-9-12.					
		39717.		220		8-20-08	
							71555
24203	0	"		"		8-29-08	
	R. 11-18-10.	5827		R. 7-16-10		101422	76848 R 8=10=1779 R 10168
							6/13/11.
1	"	R. 5-26-10		99340			
				R 2-1-11—10168.		12-21-08	R. 4-4-10 96849 R 9/7/09 #87098
							71555
2	240			220		8-29-08	
							76351
3	"			"		12-23-08	
							71555
4	240			220		8-29-08	
							76351
5	"			"		12-23-08	
							71452
6	240			220		8-14-08	
							70235
7	Spec. plate warmer	110				7-20-08	
							70411
8	1661			"		7-31-08	
							71599
9	241			120		9- 1-08	
							69317
24204	0	1600		220		7-30-08	
							73256
1	1400			104		10- 6-08	
							70155
2	"			115		7-28-08	
							70291
3	1608			113		7-22-08	
							"
4	#6 Range			"		"	

Serial. Park Mfg. Co.	Type. Prov. R. I.	Test.		Rating.		Shipped.	Orders.
		Volts.	Amps.	Volts.	Amps.		
							69720
5	240			110		7-24-08	R. 12-29-11 27247
							"
6	"			"		"	"
							"
7	"	R 4-09-80710		"		"	R 8/4/09-#85567
							" R 11/14/11 24656
8	"	R. 3-8-12. 30760		"		R-1-12-15,-89314	R 8/12/09 #86114
				R. 10-21-15. 3022		"	R-8-12-13-58898.
9	"			"		"	R-8-16-13-58083.
							69651
24205	0	#6 Range		"		7-29-08	
Serial. Park Mfg. Co.	Type. Prov. R. I.	Test.		Rating.		Shipped.	Orders.
		Volts.	Amps.	Volts.	Amps.		
							75549
24208	1	#7 Range		110		11-23-08	
							70411
2		Spec. Plate warmer	110			7-31-08	
							70731
3		1400		108		7-29-08	
							69756
4		Spec. immersion heater		220		7-30-08	
							73352
5	241			120		10-29-08	
							"
6	"	R 3-09-79223		"		"	
							70641
7	241			100		7-31-08	
8							R 4-09-79850
9							R 4-09-79850
24209	0	241	R. 10-14-10	R. 4-12-11.	13407.		70891 R. 4/10 97654 R-9-27-13.
							61306.
			3952	110		7-31-08	Reship 8-7-08-71144.
							70627
1	241			110		7-31-08	
							70504
2	240			110		7-30-08	
							70448
3		Spec. plate warmer	120			8- 1-08	

Serial. Mfg. Co.	Type. Prov. R. I	Test.		Rating.		Shipped.	Orders.
		Volts.	Amps.	Volts.	Amps.		
							70284
	4	1403		115		8- 1-08	
							70886
	5	1661		110		8- 1-08	
							70474
	6	Spec. plate warmer		115		8- 4-08	
							70611
	7	1103		215		8- 4-08	
							70808
	8	241		110		8- 5-08	
							"
	9	"		"		"	R 9/3/09 #86878.
			R. 2/5/12.	29251			70907 R. 8-15-12. 38469.
4210	0	241	R. 4-12-11.				
			13407.	110		8- 4-08	R. 4/10 97654 R. 10-5-12 40839.
							70808
	1	238		"		8- 5-08	
							"
	2	"		"		"	R. 3.19.13. 50112.
							75775
	3	425		220		12-22-08	
							"
	4	"		"		"	
							70808
	5	241		110		8- 5-08	
							67092
	6	1565		110		5- 6-08	
							"
	7	" Reg.		"		"	
							67011
	8	1574		"		"	
							"
	9	" Reg.		"		"	
							66918
4211	0	1286		100		5- 7-08	

Defendant's Exhibit No. 11.

[Endorsed]: U. S. District Court, Southern Dist. of California, So. Div. William D. Wright, Plaintiff, vs. Pacific States Electric Company, Defendant. In Equity—No. D-68. Defendant's Exhibit No. 11. M. E. Tansey, Notary Public. Filed Dec. 7, 1920. Chas. N. Williams, Clerk. Fred E. Subith, Deputy.

No. 3715. United States Circuit Court of Appeals for the Ninth Circuit. Filed Jul. 9, 1921. F. D. Monckton, Clerk.

J. F. LAMB.
ELECTRICALLY HEATED UTENSIL.
APPLICATION FILED FEB. 1, 1912.

1,060,263.

Patented Apr. 29, 1913.

Fig. 1.

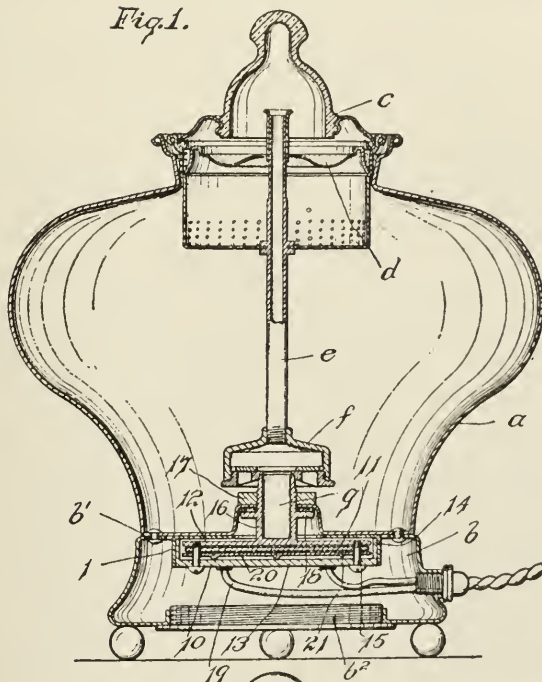
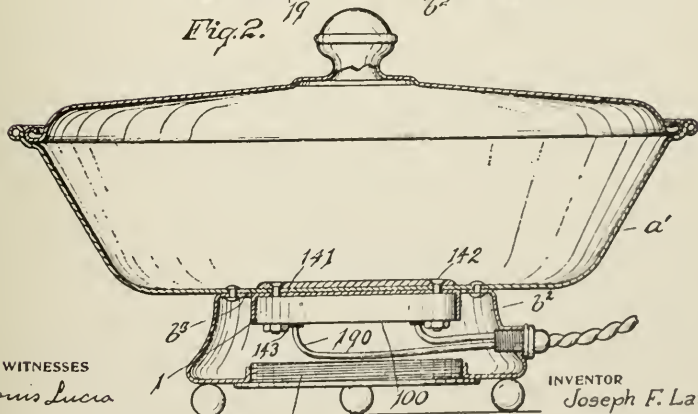


Fig. 2.



WITNESSES
Louis Lucia

M. W. Shuckrow

INVENTOR
Joseph F. Lamb:

J. E. Hart

BY
Attorney

UNITED STATES PATENT OFFICE.

JOSEPH F. LAMB, OF NEW BRITAIN, CONNECTICUT, ASSIGNOR TO
LANDERS, FRARY & CLARK, OF NEW BRITAIN, CONNECTICUT,
A CORPORATION OF CONNECTICUT.

ELECTRICALLY-HEATED UTENSIL.

1,060,263.

Specification of Letters Patent. Patented Apr. 29, 1913.

Application filed February 1, 1912. Serial No. 674,744.

To all whom it may concern:

Be it known that I, JOSEPH F. LAMB, a citizen of the United States, and a resident of New Britain, county of Hartford, State of Connecticut, have invented a certain new and useful Improvement in Electrically-Heated Utensils, of which the following is a specification.

One feature of the invention, applicable for use with any type of an electrically heated utensil relates to the protection of the heater in order to prevent the dissipation and loss of heat.

Another feature of general applicability relates to the manner of assembling the heater with the utensil.

Other features of the invention relate to the electrical heating or operation of devices known as percolators.

For purposes of illustration and description, I have selected a percolator, inasmuch as all features of the invention can be readily seen and understood as embodied therein.

Figure 1 shows a percolator made in accordance with my invention, in central vertical section. Fig. 2 illustrates another type of utensil made in accordance with my invention.

I will first describe the structure illustrated, and then point out the various features of my invention which are present in the structure. *a* denotes the bowl of the percolator, *b* the base, *c* the cover, *d* the tray in which is held the material from which the infusion is to be made, *e* the fountain tube adapted to deliver the water above the tray so that it will drip down onto and through the material in the tray back into the bowl, *f* the valve at the lower end of the fountain tube to control the passage of the water from the bowl into the vaporizing chamber *g* where it is vaporized to create a pumping effect to cause it to pass up to the fountain tube.

There are various forms of valves and vaporizing chambers, and my invention is not limited to its use with the type here illustrated.

The structure here described is such a one as I prefer but it is obvious that in many respects and especially in the character and construction of the radiating members it is susceptible of modification and alteration.

1 denotes a chamber provided at the bottom of the percolator bowl. 10 denotes the

heater adapted to fit closely within this chamber. It is of usual construction in its essential parts, that is to say, it comprises a resistance such as the coil 11 and the oppositely arranged radiating plates 12, 13. It differs in that one of the radiating members as 13 has an upstanding flange 14 of a shape corresponding to the shape of the chamber so that the entire surface of the flange can be brought into close contact with the wall of the chamber in order that the heat in the member 13 will be transmitted to the bowl of the percolator. As thus constructed, the lower radiating member is cup-shaped and receives the resistance coil and the upper radiating member, the structure being held together as by the screws 15.

By preference I make the vaporizing chamber as a part of, and preferably an integral part of, the other radiating member 12, by providing a recessed hub 16 which projects into the interior of the percolator bowl and is exteriorly threaded to receive the nut 17 by means of which the heater is held in place. The valve fits down on the top of this hub as illustrated. The hub is provided with an exterior lateral flange 18 to take a bearing on a wall of the chamber. Inasmuch as it is desirable to concentrate all of the heat of the radiating plate 12 at the vaporizing chamber, this plate is spaced from the wall of the chamber and is thus effectually insulated by the dead air space surrounding it, the entire heating effect being centered at the vaporizing chamber. An asbestos washer is placed between the lateral flange 18 and the wall of the chamber to prevent radiation of heat to the bowl at this point.

The base *b*, having the inturned flange *b'* by means of which it is secured to the percolator bowl and the screw cap *b²* closing it at the bottom, forms in connection with the wall of the bowl a dead air space underneath the heater. It is apparent that all that part of the radiating member 13 except the upstanding side flange is exposed, but the dead air space prevents the dissipation or loss of heat. The chamber which holds the heater may be made and formed in various ways, but preferably I form it separate from the bowl and of inverted cup shape the side walls of which contact with the upstanding flange 14, the end wall being drawn into close contact with the wall of the bowl in

order that the heat transmitted from the radiating member 13 to the chamber will by it be transmitted to the bowl and so to the contents thereof. The terminals 19 from the resistance 11 are brought down to the base and connected up with a receptacle adapted to receive any suitable connection plug.

That part of the invention providing against the loss of heat from the heater is not concerned with the shape of construction of the heater, or to the manner of its assemblage with the utensil, but relates solely to the provision of a heat insulator about exposed parts of the heater, which insulator as shown, and by preference, takes the form of dead air spaces as illustrated and described.

That part of the invention relating to the manner of assembling the unit with the utensil is concerned solely with the provision of a suitable chamber in order that the heating effect can be obtained from both of the radiating members of the heater, together with means for insulating exposed parts of the radiating members when so embodied. There are various ways in which these chambers can be made, either as an integral part of the bowl or separate therefrom but secured in close contact therewith. The principal consideration is that there shall be some mechanical way of attaching the element to the utensil and for holding the chamber in close contact with the wall of the utensil in order to provide for the most perfect transmission of the heat. This avoids liability of damage to the utensil due to over heating, such as would be occasioned if the parts were soldered together.

That part of the invention relating to the use of a heating element in a specific device, such as a percolator, resides in concentrating all of the heat of one of the radiating members at the vaporizing chamber which is formed as a part thereof, all of the heat of this member being utilized for vaporization of the water, while the other radiating member of the unit is utilized for the heating of the contents of the body of liquid within the bowl to a temperature suitable for use. In such a construction each of the radiating members performs a separate function upon the same part or material, namely, the water, and to produce a single result, namely, the production of a proper beverage. The type of heater which may be advantageously employed is equipped with a valve plate shown at 20 interposed between the resistance and the lower radiating member 13, carried by supports 21 resting on the bottom of the lower radiating member 13. This is for the purpose of concentrating the greater part of the heat generated at the vaporizing chamber to produce an effective pumping action

in order that the strength of the beverage can be attained in the shortest possible time. The heat which is allowed to pass to the lower radiating member and from thence through the upstanding flange to the walls of the chamber and so to the walls of the bowl being sufficient to raise the temperature of the body of the liquid to a point proper for use in about the time required for the completion of the percolating action.

In Fig. 2 certain features of the above described invention are illustrated as applied to a chafing dish, water heater and the like, where *a* denotes the utensil, *b*² the base, *b*³ the flange of the base upon which the receptacle rests and to which it is secured, 100 the heating unit, which is located within the holder 141, screws 142 passing through the bottom of the utensil through the base of the holder and through the heating unit, and being engaged by the nuts 143. 190 denotes the terminals from the resistance, and *b*²⁰ denotes a cap constituting an air tight closure for the aperture in the bottom of the base through which the unit can be passed for assembly, replacement, etc.

In using the word utensil, I desire it to be understood that I refer to any device which needs to be, or can advantageously be used in a heated condition and without regard to the use to which it is put.

I claim as my invention:

1. A utensil provided with parts to be separately heated, heat insulators between said parts, an electrical heater and separate heat conducting connections between said parts and the heater.

2. A utensil provided with parts adapted to be separately heated, an electrical heater therefor comprising a flat heating unit, heat conducting connections between one side of said heater and one of said parts, and additional heat conducting connections between the other side of said heater and the other part of the utensil.

3. The combination with the bowl and vaporizing chamber of a percolator and an electrical heater, of a heat conducting connection between one side of said heater and said vaporizing chamber, and an additional heat conducting connection between the other side of said heater and said bowl.

4. The combination with a percolator, of an electrical heater therefor including two radiating members with an interposed resistance, and a vaporizing chamber formed as a part of one of the radiating members, the other radiating member being arranged in heat conducting relation to the bowl of the percolator.

5. The combination with a percolator of an electrical heater therefor, comprising two radiating members spaced from one another

other at all points, and an interposed resistance, a vaporizing chamber formed as a part of one of the radiating members of said heater and projecting into said bowl, the other radiating member being arranged in heat conducting relation to the bowl of the percolator.

6. The combination with a percolator of an electrical heater therefor, comprising two radiating members spaced from one another at all points, and an interposed resistance, a vaporizing chamber formed as a part of one of the radiating members of said heater and projecting into said bowl but heat-insulated from the walls thereof, the other radiating member being arranged in heat conducting relation to the bowl of the percolator.

7. The combination with a percolator, of an electrical heater therefor, comprising a pair of spaced radiating members and an interposed resistance, a vaporizing chamber formed as a part of one of the radiating members and projecting into said bowl, heat insulators interposed between said radiating member and the walls of the bowl, the other radiating member being arranged in heat-conducting relation with the bowl of the percolator.

8. The combination with a percolator provided with a vaporizing chamber, of an electrical heater therefor, comprising a heating unit, a radiating member in heat conducting relation with the vaporizing chamber and heat-insulated from the bowl, and a second radiating member in heat conducting relation with the bowl but heat-insulated from the vaporizing chamber.

9. The combination with a percolator having a vaporizing chamber mounted in a wall thereof but heat-insulated therefrom, of an electrical heater having one part arranged in heat conducting relation with said vaporizing chamber and another part in heat conducting relation with the bowl of said percolator.

10. The combination with a percolator of an electrical heater therefor comprising a pair of radiating members and an interposed resistance, a vaporizing chamber formed as a part of one radiating member of said heater, means for removably securing said vaporizing chamber to said bowl, and heat conducting connections between the other radiating member and the bowl of said percolator.

11. In a percolator the combination with the bowl, of an electrical heater therefor comprising an upper radiating member heat insulated from the bowl, a vaporizing chamber in heat conducting relation with said radiating member, a lower radiating member in heat conducting relation with the bowl, and a resistance material interposed between said radiating members.

12. In an electrically heated percolator, the combination with a bowl provided with a chamber at its lower end, of an electrical heater comprising a lower radiating member having an upstanding flange to fit within said chamber and contact with the side walls thereof, an upper radiating member spaced from said lower radiating member, a resistance interposed between said radiating members and insulated therefrom, and a recessed hub formed as a part of said upper radiating member and projecting through the aperture in the bowl for the purpose specified, and a heat insulator interposed between the said upper radiating member and the wall of the bowl.

13. In an electrically heated percolator, a chamber formed at the bottom of the bowl and having a central aperture, a heater located in said chamber and including upper and lower radiating members, the lower radiating member thereof being in heat conducting relation with the side walls thereof, a heat insulator interposed between the top member of said heater and the wall of the bowl, a central hub on said top member having a threaded end adapted to project through the aperture and be engaged by securing means located within the bowl, and a fluid-receiving cavity in said hub in communication with the interior of the bowl.

14. In an electrically heated percolator, a chamber formed at the bottom of the bowl and having a central aperture, a heater located in said chamber and including upper and lower radiating members, one radiating member of which is in heat conducting relation with the side walls thereof, a heat insulator interposed between the other radiating member of said heater and the wall of the bowl, a central hub on said last mentioned radiating member exteriorly threaded and adapted to project through the aperture and be engaged by securing means located within the bowl, a fluid-receiving cavity in said hub in communication with the interior of the bowl, and a heat insulator surrounding the exposed parts of said heating element.

15. In an electrically heated percolator, a chamber formed at the bottom of the bowl having a central aperture, an electrical heater located in said chamber and including upper and lower radiating members, the lower radiating member of which is in heat conducting relation with the side walls thereof, a heat insulator interposed between the top member of said heater and the wall of the bowl, a central hub on said top member having a threaded end adapted to project through the aperture and be engaged by securing means located within the bowl, a fluid-receiving cavity in said hub in communication with the interior of the bowl, and a base secured to the bottom of the bowl

and forming therewith a closed chamber surrounding the exposed portions of said heating element.

16. In an electrically heated percolator, the combination with a bowl having its bottom recessed and centrally apertured and a base secured to the bottom of said bowl and forming with it an inclosed dead-air space, of a heating element comprising upper and lower radiating members, an upstanding flange on the lower radiating member, a resistance element interposed between and insulated from said radiating members, a recessed hub formed as a part of said upper radiating member and projecting through the aperture, and a receptacle located in said base and to which the terminal wires from said resistance element are connected.

17. In an electrically heated percolator a bowl having an aperture in its bottom, an inverted cup-shaped holder having an aperture, an electrical heater comprising a pair of radiating members and an interposed resistance, one of said radiating members having formed therewith a vaporizing chamber adapted to project through the apertures in the holder and bowl, means within the bowl

engaging the walls of said vaporizing chamber to unite said heating unit and holder with said bowl, the other radiating member of said heater being arranged in heat conducting relation with the wall of said holder, and a heat insulator interposed between the first mentioned radiating plate and said holder and bowl.

18. In an electrically heated percolator, the combination with a bowl of an electrical heater comprising a pair of oppositely arranged radiating members, and an interposed resistance, a recessed hub forming a vaporizing chamber formed integrally with one of the radiating members and projecting through an aperture in the bowl, means within the bowl engaging said hub to secure said heater in position, means for insulating said member from the bowl, means for transmitting the heat in the other radiating member to the walls of said bowl, and a heat insulator surrounding exposed portions of the last mentioned radiating member.

JOSEPH F. LAMB.

Witnesses:

LEROY H. PAGE,

H. A. TRAVER.

Copies of this patent may be obtained for five cents each, by addressing the "Commissioner of Patents, Washington, D. C."

Defendant's Exhibit No. 12.

[Endorsed]: U. S. District Court, Southern Dist. of California. William D. Wright, Plaintiff, vs. Pacific States Electric Company, Defendant. In Equity—No. D-68. Defendant's Exhibit No. 12. M. E. Tansey, Notary Public. Filed Dec. 7, 1920. Chas. N. Williams, Clerk. Fred E. Subith, Deputy.

No. 3715. United States Circuit Court of Appeals for the Ninth Circuit. Filed Jul. 9, 1921. F. D. Monckton, Clerk.

J. F. LAMB.
HEATING ELEMENT.
APPLICATION FILED APR. 12, 1912.

1,060,264.

Patented Apr. 29, 1913.

Fig. 1.

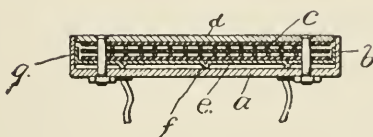


Fig. 2.

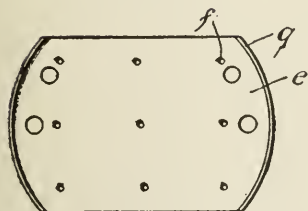


Fig. 3.

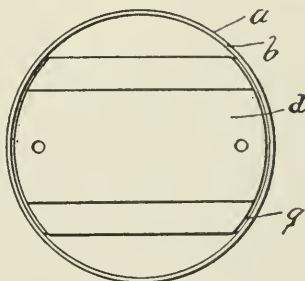
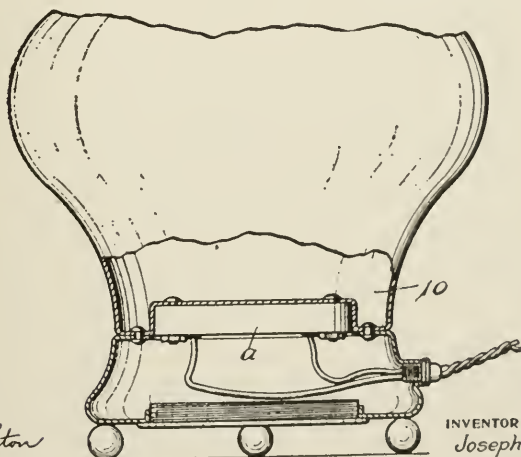


Fig. 4.



WITNESSES

Ed. Stoughton
Louis Lucia

INVENTOR
Joseph F. Lamb.

BY

A. E. Hart
ATTORNEY

UNITED STATES PATENT OFFICE.

JOSEPH F. LAMB, OF NEW BRITAIN, CONNECTICUT, ASSIGNOR TO
LANDERS, FRARY & CLARK, OF NEW BRITAIN, CONNECTICUT,
A CORPORATION OF CONNECTICUT.

HEATING ELEMENT.

1,060,264.

Specification of Letters Patent.

Patented April 29, 1913.

Application filed April 12, 1912. Serial No. 690,278.

To all whom it may concern:

Be it known that I, JOSEPH F. LAMB, a citizen of the United States, and a resident of New Britain, in the county of Hartford and State of Connecticut, have invented certain new and useful Improvements in Heating Elements, of which the following is a specification.

The object of this invention is to provide a heating unit for use in utensils of various kinds.

It is the purpose of this invention to prevent loss of heat by preventing the transmission of heat to the exposed parts of either of the radiating members. This I accomplish by the use of a valve plate interposed between the resistance material or unit and that radiating member part of whose surface is exposed, that is to say, is not in direct heat conductive relation to the parts of the utensil which it is desired to heat, and by means of which the transmission of heat thereto can be controlled or wholly prevented; but I do provide the said valve plate with surfaces which can be brought into heat conductive relation with other parts of said radiating member or utensil and from which heat is transmitted to the utensil. Thus I am enabled to control the heating of this radiating member to suit any condition of use. Obviously, if the parts of both radiating members were exposed, owing to some peculiar construction or special use, they could both be treated along the general lines of my invention as indicated above.

In the drawings—Figure 1 is a central vertical section of a heating unit made in accordance with my invention. Fig. 2 is a top view of the radiating member. Fig. 3 is a top view of the assembled unit. Fig. 4 is a side elevation partly in section showing the unit installed for use.

Referring to the drawings, illustrating one embodiment of the invention, *a* denotes one radiating member which as shown has an upturned flange *b* within which the resistance *c*, here shown as in the form of a coil, and the radiating member *d* are located and assembled with the proper insulation. In the case illustrated, the upper radiating member is in heat-conductive relation with the wall of the utensil 10, and the flange *b* of the lower radiating member

a is also in similar arrangement. The bottom of the lower radiating member, however, is exposed, that is to say, it does not directly contact with the wall of the utensil and cannot well be arranged to. Consequently, the valve plate *e* is interposed between the resistance *c* and the bottom of the lower member *a* and spaced therefrom by the projections *f*, or if desired, by blocks of insulating material, in order to diminish the amount of, or totally prevent, the passage of heat thereto.

At the edges of the valve plate are flanges *g* which fit closely within, and have intimate surface contact with, the flange *b* on the lower radiating member *a* which in turn contacts with the wall of the utensil. These flanges are preferred since they give greater surface contact but either or both may be dispensed with if desired. It will further be noted that as illustrated, the edges of the upper radiating member do not contact with the flange of the lower radiating member, and it will be observed that when the heating unit is assembled the space between the valve plate and the lower radiating member becomes a dead air space and so acts as an effective heat insulator. The heat in the upper radiating member is transmitted directly to the wall of the utensil, and the heat in the valve plate passes not to the bottom or exposed portion of the lower radiating member but to the flange thereof which is in contact with the wall of the utensil, thus making it possible to utilize the full heating effect of the unit to heat the utensil, or its contents, as the case may be, and avoiding to the greatest possible degree loss of heat due to radiation from exposed surfaces of the radiating members. Obviously, my invention is not concerned with the shape of the unit, or its several parts, or to the method of installation in a utensil, nor is it concerned with the character of the radiating members, that is to say whether they be formed separately from, or as parts of the utensil.

I claim as my invention:

1. In a device of the character described a resistance unit having a part adapted to be arranged in heating relation with a utensil, a heat conducting member arranged against the exposed part of the unit, and a valve plate interposed between said unit and

said member, said member and valve plate being also arranged in heating relation with the utensil.

2. In an article of the character described the combination with a resistance material of heat-radiating members located at opposite sides thereof, and a valve-plate located between said resistance material and one of said heat-radiating members and arranged in heat-conductive relation with active parts of said radiating member and spaced from the inactive parts thereof.

3. In a device of the character described, the combination with heat-radiating members and an interposed resistance, of an upstanding flange formed at the edge of one of the radiating members, a valve plate located between said member and the resistance, and a flange on the valve plate arranged in heat conductive relation to the flange on the radiating member.

4. In an article of the character described, a resistance material, a radiating plate on each side thereof, one of which is provided with an edge flange, a valve plate located between the resistance and said flanged radiating member and spaced from the latter, and a flange on the valve plate arranged in heat-conductive relation with the flange on the radiating member.

5. The combination with an electrical heating element comprising radiating members, and an interposed resistance material, of a valve plate located between one side of said resistance and the adjacent radiating member and spaced from the latter.

6. In an electrical heating unit; the com-

bination with a resistance, radiating plates on opposite sides thereof, spaced from one another at all points, and insulation interposed between said resistance and radiating plates, of a valve plate located between one of said radiating plates and the insulation on the adjacent side of said resistance, and separated supports located between said valve plate and adjacent radiating plate.

7. In an electrical heating unit the combination with a resistance and radiating plates located on opposite sides thereof and spaced from one another at all points, of a valve plate located between one of said radiating plates and the adjacent side of said resistance, the mass of said valve plate being less than the mass of the other radiating plate.

8. In an electrical heating unit a radiating plate provided with an upstanding circumferential flange at its edge, a second radiating plate located in juxtaposition to the first but spaced therefrom at all points, and an interposed resistance, said resistance and second radiating plate being located within said upstanding flange.

9. The combination with an electrical heating unit comprising heat radiating members and an interposed resistance material, of a valve plate located against one side of said resistance material in heating relation therewith and spaced from the adjacent radiating member.

JOSEPH F. LAMB.

Witnesses:

I. M. BUSH,
HAROLD GRACE.

Copies of this patent may be obtained for five cents each, by addressing the "Commissioner of Patents, Washington, D. C."

Defendant's Exhibit No. 13.

[Endorsed]: U. S. District Court, Southern Dist. of California. William D. Wright, Plaintiff, vs. Pacific States Electric Company, Defendant. In Equity—No. D-68. Defendant's Exhibit No. 13. M. E. Tansey, Notary Public. Filed Dec. 7, 1920. Chas. N. Williams, Clerk. Fred E. Subith, Deputy.

No. 3715. United States Circuit Court of Appeals for the Ninth Circuit. Filed Jul. 9, 1921. F. D. Monekton, Clerk.

J. F. LAMB.
ELECTRICALLY HEATED DEVICE.
APPLICATION FILED MAY 31, 1912.

1,060,265.

Patented Apr. 29, 1913.

2 SHEETS-SHEET 1.

Fig. 1.

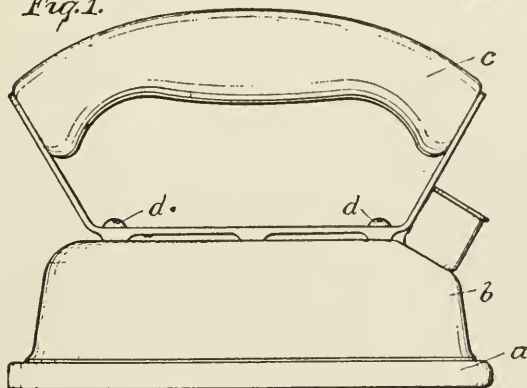


Fig. 2.

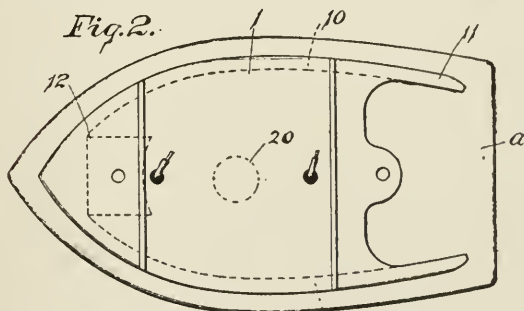


Fig. 3.

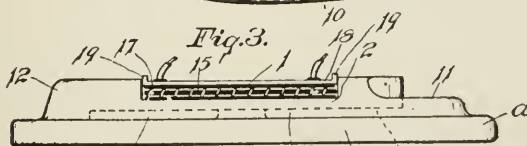
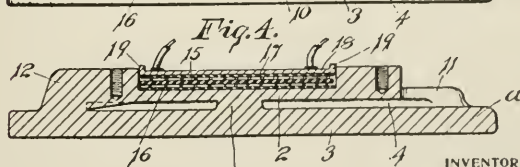


Fig. 4.



WITNESSES

Louis Luca
Carl L. Stoughton

INVENTOR
Joseph F. Lamb:

BY

J. E. Stant
his ATTORNEY

J. F. LAMB.
ELECTRICALLY HEATED DEVICE.
APPLICATION FILED MAY 31, 1912.

1,060,265.

Patented Apr. 29, 1913.

2 SHEETS—SHEET 2.

Fig. 5

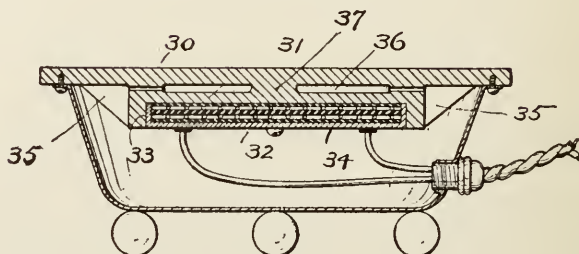
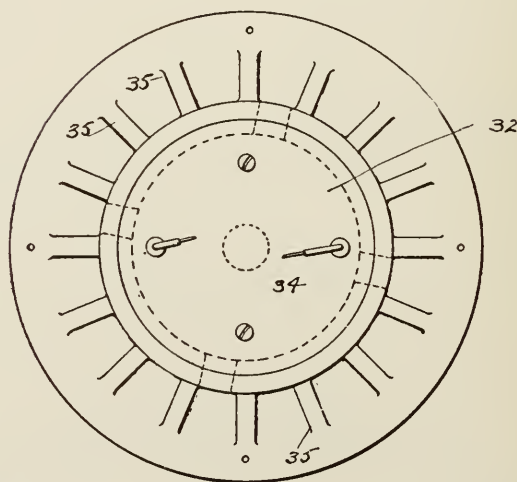


Fig. 6



WITNESSES
W. D. Shuckrow
M. E. O'Neil

INVENTOR
Joseph F. Lamb:
BY *J. E. Hart*
his ATTORNEY

UNITED STATES PATENT OFFICE.

JOSEPH F. LAMB, OF NEW BRITAIN, CONNECTICUT, ASSIGNOR TO
LANDERS, FRARY & CLARK, OF NEW BRITAIN, CONNECTICUT,
A CORPORATION OF CONNECTICUT.

ELECTRICALLY-HEATED DEVICE.

1,060,265.

Specification of Letters Patent.

Patented April 29, 1913.

Application filed May 31, 1912. Serial No. 700,573.

Call whom it may concern:

Be it known that I, JOSEPH F. LAMB, a citizen of the United States, and a resident of New Britain, in the county of Hartford, State of Connecticut, have invented certain new and useful Improvements in Electrically-Heated Devices, of which the following is a specification.

The object of this invention is to produce an electrically-heated device such as a stove, or iron, or the like, having features of novelty and advantage.

More especially, by my invention I provide means for distributing the heat evolved in the heating unit to the surface to be heated without special reference to the location of the heating unit relative to the surface to be heated. This makes it possible to use heating units, the design and construction of which are in general like or similar, in connection with devices of various kinds, as distinguished from making a special form of unit for each device which it is desired to heat. This result is accomplished partly through the construction of the unit, which in essential features is the same for various uses, its shape merely being changed, and partly to the manner of mounting the unit in the device, and especially in the method of transmitting the heat from the unit, or its holder, to various parts of the surface to be heated.

I have illustrated two embodiments of the invention for the purpose of clearly disclosing the various features.

Figures 1, 2, 3 and 4 show the invention embodied in a sad iron. Figs. 5 and 6 show the invention embodied in a stove, or heating plate. Fig. 1 is a side view of a sad iron. Fig. 2 is a plan view thereof with the top removed. Fig. 3 is a side view of what is shown in Fig. 2. Fig. 4 is a central vertical section of what is shown in Figs. 2 and 3. Fig. 5 is a side view of a stove, the base being broken away and the heating plate shown in section. Fig. 6 is a bottom view of the heating plate.

Referring to Figs. 1 to 4 inclusive, the iron is denoted at *a*, and *b* is the cover secured thereto as by the screws *d d*. The cover may be weighted if desired and is provided with a suitable handle *c*. The heating unit is located on a support or platform 2 recessed as illustrated. 3 denotes the surface to be heated which in this case is

the sole of the iron. A recess 4 is formed between the platform 2, on which the unit is located, and the surface to be heated, the recess being connected with the base by the side webs 10, 10, the rearwardly projecting ribs 11, 11 and the forwardly extending web or tip 12. Since, as shown these webs and ribs are formed integrally with the surface to be heated and with the socket, it will be seen that they are in heat-conductive relation with both and so constitute an effective means for transmitting the heat evolved in the unit from the platform or recess to the surface to be heated. The size or cross sectional area of these webs or ribs is calculated to produce the amount of heating effect which is desired. A preferred type of heating unit is illustrated and comprises a flat core of insulating material, such as mica, about which is wound a resistance coil 15 on either side of which are thin layers of insulating material 16, 17, such as mica. As illustrated the bottom of the recess or platform 2 forms one of the radiating plates, and on the opposite side of the unit there is located the radiating plate 18 having the edge flange 19 arranged in heat-conductive relation with the side walls of the socket. It will thus be seen that substantially all of the heat evolved in the unit is transmitted directly to the bottom and walls of the recess in which it is located, and by the webs and ribs 10, 11, 12 transmitted to the surface to be heated. The spacing of the bottom of the socket from the surface to be heated, as by the recess 4, is advisable in cases where otherwise the central portion of the surface to be heated, as the sole of the iron, would be overheated. It will be seen that when the cover *b* is in place it provides an envelop of dead air surrounding the socket, ribs and heating unit, preventing to a large degree the dissipation of the heat. Other webs may be utilized in order to get a proper distribution of the heat as indicated at 20,

Referring particularly to Figs. 5 and 6 which show my invention embodied in a stove, 30 denotes the surface to be heated, 31 the platform to which the unit 32 is secured, 33 the socket in which the unit is located, a radiating plate 34 of the unit being in heat-conductive relation with the side walls of the socket. 35, 35 denote the webs of conducting material which carry

the heat from the unit to the different parts of the surface to be heated. 36 denotes an air space between the platform and the surface to be heated, and 37 a central web which may be used in cases where it is desired to conduct some of the heat directly to the center of the plate 30 in order to accomplish a proper heating effect.

From a study of the two devices used as illustrations as embodiments of the invention, it will be seen that within reasonable limits the relative positions of the surface to be heated and the platform on which the unit is located is not material since means are provided for carrying the heat to different points and in proper or desirable amounts. Changes in the relative positions of the surface to be heated and the unit will probably require changes in the number and cross sectional area of the conducting webs. It will also be observed that by my invention, it is possible to use a practically standard form of unit for heating various devices rather than construct and shape the unit for special uses.

I do not wish to be understood as limiting the adaptation of my invention to the embodiments which have been selected for illustration as I am aware that there are various devices in which the present invention can be utilized by changing the form or shape of the parts, but still retaining the important features here disclosed.

I claim:

1. In a device of the character described a mass of heat conducting material comprising heat-receiving and heat-yielding sections connected together at different points by webs of desired heat conductive capacity, and an electrical heater arranged in heating relation with said heat-yielding section.

2. In a device of the character described a mass of heat conducting material, comprising heat-receiving and heat-yielding sections spaced from one another in some portions and connected together at other points by webs of desired heat-conductive capacity,

and an electrical heater arranged in heating relation with said heat-yielding section.

3. In a device of the character described a mass of heat conducting material comprising heat-receiving and heat-yielding sections, the latter being provided with a socket, said sections being connected together by webs of suitable heat conductive capacity, and an electrical heater located in said socket in heating relation with said heat-yielding section.

4. In a device of the character described a surface to be heated, a platform formed integrally therewith but spaced therefrom in some portions and connected thereto at other points by webs of desired heat conductive capacity, a flat electrical heater located on the platform and a plate of heat conducting material arranged against the upper side of the heater and in heat conductive relation with the platform.

5. In a device of the character described a surface to be heated, a platform formed integrally therewith but spaced therefrom in some portions and connected thereto at other points by webs of desired heat conductive capacity, said platform being provided with a socket, a flat electrical heater located within the socket against the upper side of said heater and in heating relation with the walls of the socket.

6. In a device of the character described a mass of heat conducting material, comprising heat-receiving and heat-yielding sections, the latter being provided with a socket, said sections being connected together by webs of suitable heat conductive capacity, an electrical heater located in said socket in heating relation with the said heat yielding section, and a plate of conducting material arranged in heating relation with said heater and in heat conducting relation with the walls of the socket.

JOSEPH F. LAMB.

Witnesses:

JACOB WIEGAND, Jr.,
E. ANDREWS.

Copies of this patent may be obtained for five cents each, by addressing the "Commissioner of Patents, Washington, D. C."

Defendant's Exhibit No. 14.

[Endorsed]: U. S. District Court, Southern Dist. of California. William D. Wright, Plaintiff, vs. Pacific States Electric Company, Defendant. In Equity—No. D-68. Defendant's Exhibit No. 14 M. E. Tansey, Notary Public. Filed Dec. 7, 1920. Chas. N. Williams, Clerk. Fred E. Subith, Deputy.

No. 3715. United States Circuit Court of Appeals for the Ninth Circuit. Filed Jul. 9, 1921. F. D. Monckton, Clerk.

J. F. LAMB.

PROTECTIVE DEVICE FOR ELECTRICALLY HEATED UTENSILS.

APPLICATION FILED DEC. 13, 1912.

1,060,266.

Patented Apr. 29, 1913.

Fig. 1.

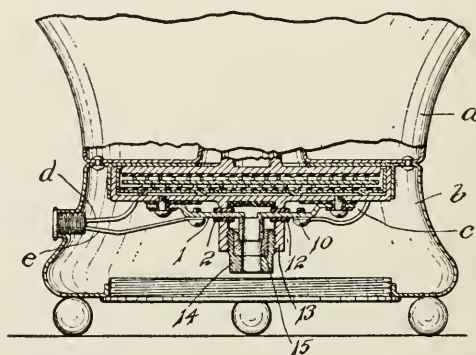
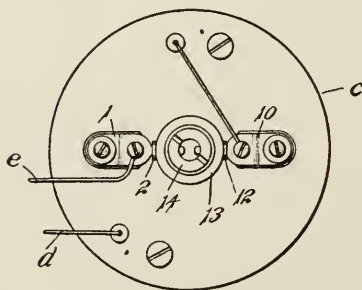


Fig. 2.



WITNESSES

Wm. E. Quinn
Laura Lucia

INVENTOR

Joseph F. Lamb:

BY

H. E. Hart
 ATTORNEY

UNITED STATES PATENT OFFICE.

JOSEPH F. LAMB, OF NEW BRITAIN, CONNECTICUT, ASSIGNOR TO
LANDERS, FRARY & CLARK, OF NEW BRITAIN, CONNECTICUT,
A CORPORATION OF CONNECTICUT.

PROTECTIVE DEVICE FOR ELECTRICALLY-HEATED UTENSILS.

1,060,266.

Specification of Letters Patent.

Patented Apr. 29, 1913.

Application filed December 13, 1912. Serial No. 736,526.

all whom it may concern:

Be it known that I, JOSEPH F. LAMB, a citizen of the United States, and a resident of New Britain, in the county of Hartford and State of Connecticut, have invented certain new and useful Improvements in Protective Devices for Electrically-Heated Utensils, of which the following is a specification.

The object of the invention is to provide means for automatically breaking the circuit of an electrical heater at a predetermined temperature, which is a little lower than a temperature which would destroy or injure the heater or the utensil, thus acting as a guard to protect the device in case it is inadvertently left with the current on when it is empty.

In the drawings which we illustrate an embodiment of the invention Figure 1 is a side elevation partly in section, Fig. 2 is the bottom view of the heater.

In the drawings *a* denotes a receptacle, *b* its base, and *c* the complete heater; *d* and *e* represent the circuit wires, the wire *e* being broken and connected with the terminals 1, 10, which, as seen, are spaced apart. These terminals may be conveniently mounted on a part of the heater and insulated therefrom, and, as shown, they project through insulating sleeves 2, 12, into a tubular hub 13, which is threaded to receive a tubular bushing 14, provided with an insulating lining 15 which supports a tube of lead or other suitable metal, which contacts with the spaced terminals 1, 10 and provides an electrical connection between them. If the utensil is empty and the current left on, the heat will soon rise to a point where the lead sleeve will be melted and the circuit between the terminals 1, 10, broken. As the lead melts it will run out through the tubular bushing and so keep the seat in the insulating lining free and clear. In order to reestablish the circuit connections it is only necessary to remove the bushing 14, remove what is left of the lead connector and insert another one, replacing the bushing in position on the hub to connect up the two terminals.

Having now described one embodiment of the invention I desire it to be understood that it is my intention to cover any alterations or modifications which may come within the scope of the appended claims.

I claim as my invention:

1. The combination with an electrical heater, a pair of spaced terminals connected into the circuit of said heater, and a holder, of a connector having a relatively low fusing point, formed separately from but clamped between said terminals and holder.

2. The combination with an electrical heater having a normally broken circuit of a connector made of material fusible at a relatively low temperature, and a holder formed at least in part of insulating material, engaging said connector to hold it in contact with the adjacent ends of the broken circuit.

3. The combination with an electrical heater and a pair of spaced terminals connected into the circuit of said heater, of a tubular hub within which the ends of said terminals project, a bushing threaded into the end of said hub, an insulating lining in said bushing, and a connector of metal fusible at a relatively low temperature separated from but supported by said insulating lining in contact with said terminals.

4. The combination with an electrical heater and a pair of spaced terminals connected into the circuit of said heater, of a tubular hub within which the ends of said terminals project, a tubular bushing threaded into the end of said hub, an insulating lining in said bushing, and a tubular connector of metal fusible at a relatively low temperature supported by said insulating lining in contact with said terminals.

5. The combination with an electrical heater and a pair of spaced terminals connected into the circuit of said heater, of a tubular hub within which the ends of said terminals project, a tubular bushing threaded into the end of said hub, an insulating lining located within the bushing and having an inwardly inclined seat, and a tubular connector of metal fusible at a relatively low temperature supported on the seat in the insulating lining and held in contact with the terminals.

6. The combination with an electrical heater and a pair of spaced terminals connected into the circuit of said heater, of a tubular hub depending from the underside of the heater and having aligned apertures through which said terminals project, insulating linings in the apertures, a connector made of metal having a relatively low fus-

ing point located within said hub in contact with said terminals, a holder for said connector, means for supporting said holder in position, and insulation interposed between the connector and the hub.

7. The combination with an electrical heater and a pair of spaced terminals connected into the circuit of said heater, of a holder recessed in one end, a connector lo-

cated in the recess in said holder, insulating material interposed between the holder and connector, and means for supporting said holder to position and maintain said connector in contact with said terminals.

JOSEPH F. LAMB.

Witnesses:

C. H. DEMING,

O. N. JUDD.

Copies of this patent may be obtained for five cents each, by addressing the "Commissioner of Patents, Washington, D. C."

Defendant's Exhibit No. 15.

[Endorsed]: U. S. District Court, Southern Dist. of California. William D. Wright, Plaintiff, vs. Pacific States Electric Company, Defendant. In Equity—No. D-68. Defendant's Exhibit No. 15. M. E. Tansey, Notary Public. Filed Dec. 7, 1920. Chas. N. Williams, Clerk. Fred E. Subith, Deputy.

No. 3715. United States Circuit Court of Appeals for the Ninth Circuit. Filed Jul. 9, 1921. F. D. Monckton, Clerk.

J. F. LAMB.
ELECTRICALLY HEATED UTENSIL.
APPLICATION FILED DEC. 16, 1912.

1,060,267.

Patented Apr. 29, 1913.

Fig. 1.

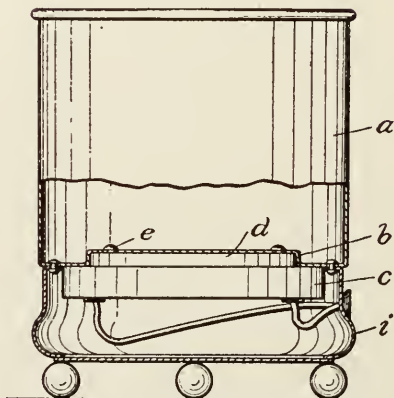
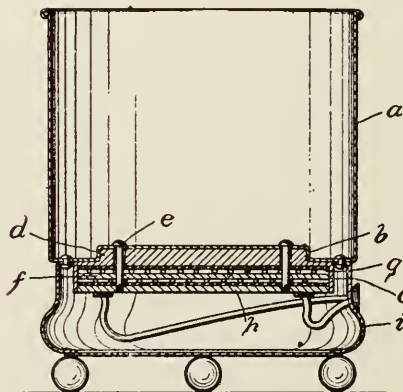


Fig. 2.



WITNESSES

Louis Licia.
Anna E. B. B. B.

INVENTOR
Joseph F. Lamb

BY

H. E. Hart
ATTORNEY

UNITED STATES PATENT OFFICE.

JOSEPH F. LAMB, OF NEW BRITAIN, CONNECTICUT, ASSIGNOR TO
LANDERS, FRARY & CLARK, OF NEW BRITAIN, CONNECTICUT,
A CORPORATION OF CONNECTICUT.

ELECTRICALLY-HEATED UTENSIL.

1,060,267.

Specification of Letters Patent.

Patented Apr. 29, 1913.

Application filed December 16, 1912. Serial No. 737,118.

to whom it may concern:

Be it known that I, JOSEPH F. LAMB, a citizen of the United States, and a resident of New Britain, in the county of Hartford and State of Connecticut, have invented certain new and useful Improvements in Electrically-Heated Utensils, of which the following is a specification.

The object of the invention is to provide means for utilizing substantially all of the heat generated by the unit to effect the heating of the utensil and to provide for maintaining a perfect heat conducting relation between the unit or parts thereof and the utensil during its operation.

In the drawings Figure 1 is a side view showing part of the utensil in section. Fig. 2 is a sectional view of the complete heating element.

The invention as illustrated is embodied in a receptacle which is indicated at *a*; having a socket *b*; *c* is a holder for the electrical heater made of heat conducting material and having plug *d* which fits closely within the socket, screws *e* holding the holder in position.

f is the heater, which is of the resistance type, located within a recess *g* in the holder and covered by the heat conducting plate *h* which is fitted within the recess, the heater and plate being secured in the holder in any convenient manner. When current is turned to the heater, the holder becomes hot, the plug swells and binds itself into the socket of the receptacle, perfecting and maintaining the heat conductive relation between the

plug and the utensil. The plate *h* also expands under the heat, and swells to a tight fit in the holder. Preferably an air-tight pocket is formed about the holder as by the base *i* to prevent the loss of heat. It will thus be seen that the expansion or distortion of the plate *h* and the plug *d* when heated tends to make more perfect the heat conducting path from the heater to the utensil without the aid of any mechanical clamping or securing devices.

I claim as my invention:

1. The combination with a utensil provided with a socket, of an electrical heater and a holder therefor, said holder being formed of heat conducting material, and a plug on said holder closely fitting the socket and adapted when heated to swell and completely fill the socket and establish more efficient heat conductive relation with the wall thereof.

2. The combination with a utensil provided with a socket, of a holder provided with a plug fitting in the socket and adapted under heat to expand and fill the socket, said holder being provided with a recess, an electrical heater located in the recess, and a plate of conducting material located against the heater and within the recess, and adapted under heat to expand into intimate contact with the walls of the recess.

JOSEPH F. LAMB.

Witnesses:

J. A. LINDSAY,
C. E. CRANE.

Copies of this patent may be obtained for five cents each, by addressing the "Commissioner of Patents, Washington, D. C."

Defendant's Exhibit No. 22.

[Endorsed]: No. D-68. Wright v. Pacific. Deft. Exhibit No. 22. Filed Dec. 7, 1920. Chas. N. Williams, Clerk. By Fred E. Subith, Deputy Clerk.

No. 3715. United States Circuit Court of Appeals for the Ninth Circuit. Filed Jul. 9, 1921. F. D. Monckton, Clerk.

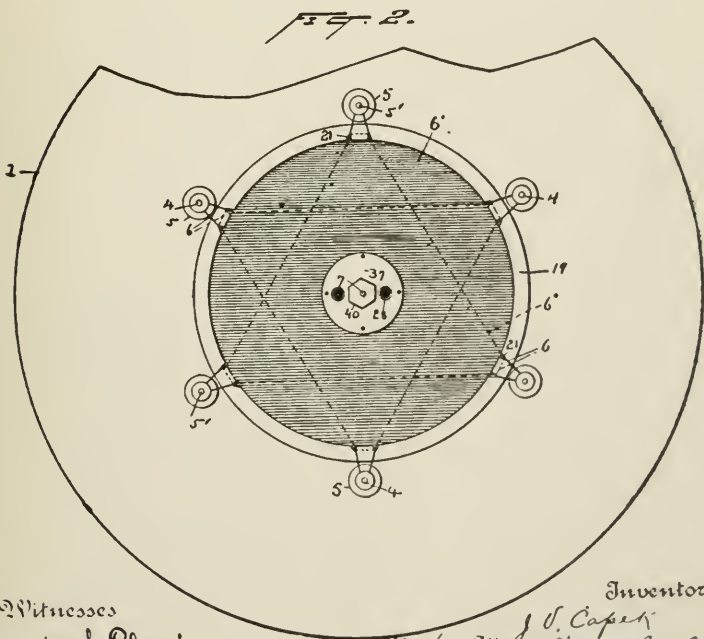
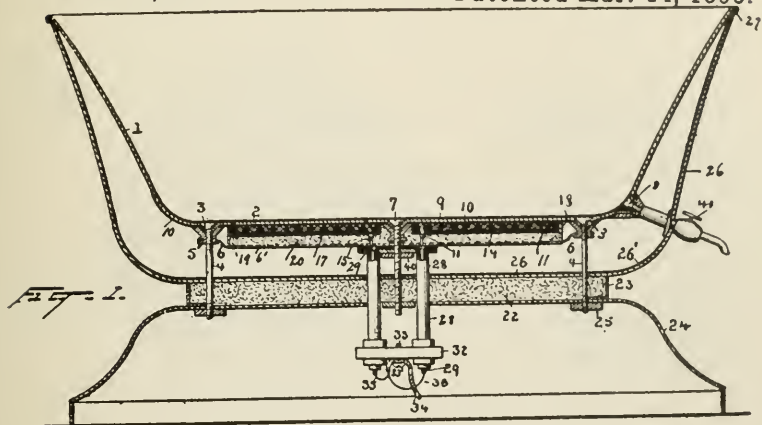
(No Model.)

3 Sheets—Sheet 1.

J. V. CAPEK.
ELECTRICALLY HEATED VESSEL.

No. 493,422.

Patented Mar. 14, 1893.



Witnesses
Irons & Clark.
R. F. Clark

Inventor
J. V. Capek
By the Attorney
S. W. Seely.

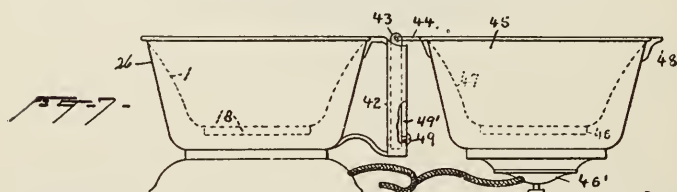
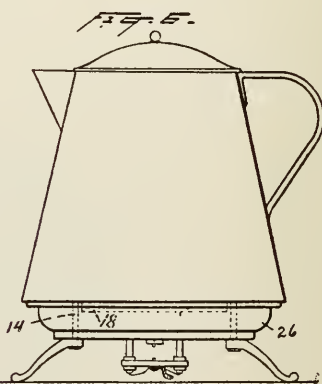
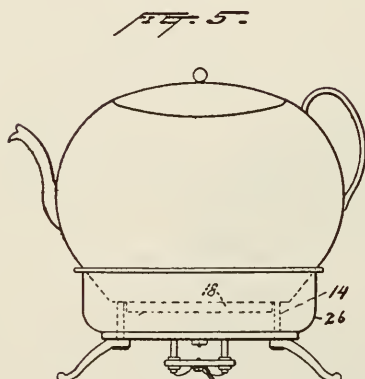
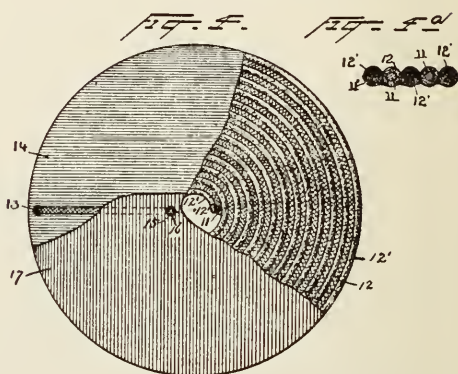
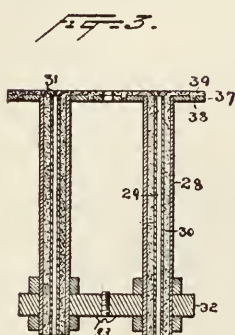
(No Model.)

3 Sheets—Sheet 2.

J. V. CAPEK.
ELECTRICALLY HEATED VESSEL.

No. 493,422.

Patented Mar. 14, 1893.



Witnesses
Thomas A. Clark.
W. F. Oberly

Inventor
J. V. Capek
By his Attorneys
Syer & Seely.

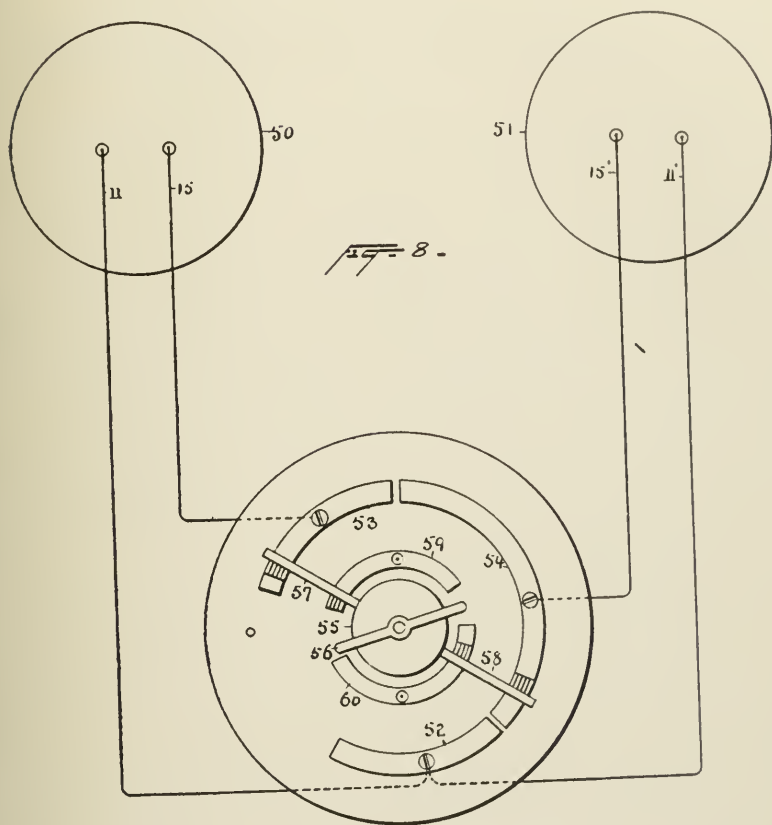
(No Model.)

3 Sheets—Sheet 3

J. V. CAPEK.
ELECTRICALLY HEATED VESSEL.

No. 493.422.

Patented Mar. 14, 1893.



Witnesses
Thomas A. Clark.
Dr. F. Gherke

Inventor
J. V. Capek
By his Attorney
Syer & Suly

UNITED STATES PATENT OFFICE.

JOHN V. CAPEK, OF NEW YORK, N. Y., ASSIGNOR OF ONE-HALF TO
EDWARD H. JOHNSON, OF SAME PLACE.

ELECTRICALLY-HEATED VESSEL.

SPECIFICATION forming part of Letters Patent No. 493,422, dated March 14, 1893.

Application filed December 14, 1891. Serial No. 414,909. (No model.)

To all whom it may concern:

Be it known that I, JOHN V. CAPEK, a citizen of the United States, residing at New York city, in the county and State of New York, have invented a certain new and useful Improvement in Electrical Cooking Utensils, of which the following is a specification.

The present invention relates to devices for cooking, in which electrical heating coils are employed. I term the present heater a direct heater or cooker, since it is preferably employed without an oven, the thing to be cooked being placed directly in the vessel constituting the body of the apparatus, or being placed in a separate vessel which can be set on or into the first mentioned vessel.

The invention consists in the several combinations and features of construction hereinafter set forth and claimed.

In the accompanying drawings, Figure 1 is a central section of my apparatus. Fig. 2 is a bottom view of the vessel on which the heater proper is mounted. Fig. 3 is a view, on a larger scale than in Fig. 1, of the support for the conductors leading to the heater. Fig. 4 is a view looking from the under side of the heating coil or volute, a part of the insulating coatings being broken away to show the arrangement of the conductor. Fig. 4a is a cross section showing the insulation of the heating conductor. Figs. 5 and 6 show the heaters mounted on different forms of receptacles. Fig. 7 shows a form of vessel in which two heaters may be mounted; and Fig. 8 is a diagrammatic view of the circuits and switch connections when two heaters are employed, for example with the utensil shown in Fig. 7.

I take a thin metal receptacle 1, preferably having a flat bottom 2 which serves as the heating plate, and form therein conical seats 3, into which screws 4, with conical heads, are inserted, a tubular nut 5, with flaring head, being preferably placed in the position shown around each screw. Some of the screws are long, as shown in Fig. 1. These are indicated by the numerals 4 in Fig. 2. In addition to the long screws I prefer to use two or more shorter screws 5' for the purpose of giving additional supports for the lacing wire 6, hereinafter described. The short screws will be just like the long ones, except that they will

terminate at the lower end of the sleeves 5. At the center of the bottom 2 is a screw 7 similar to the screws 4. In the bottom, or in one side near the bottom, is a hollow screw 8 forming a passage to the faucet, the head of which is secured in the inner-vessel in the same manner as the screws already described. When these parts have been put in position the vessel is coated with enamel, preferably on the inner and outer faces, as shown by the heavy black lines at 9, 10. The enamel on the inside covers the screw heads and makes the joints tight so that if desired water can be heated directly in vessel 1. The enamel on the outside forms a layer of insulation against which the heating coil rests directly. The enamel is adapted to withstand a high degree of heat; it also stiffens the thin bottom so that it is less liable to be bent out of shape. Said heating coil consists of an iron, German silver or other heating conductor 11, insulated by a coating 12 of cotton fiber soaked or wet with silicate of sodium, and coated or treated with clay digested in silicate of sodium (11') on the side from which the ends of the conductor project, said wire being coiled with an asbestos twine 12', also wet in a solution of silicate of sodium or similar insulating and heat-resisting composition.

In forming the heating coil, the wire and the twine are preferably wound together between two parallel disks which serve to hold the convolutions of the volute in a single plane. When the material with which this insulating coating of the conductor and the twine are treated hardens by drying, the coil is removed from between the disks and will retain its shape. The inner end of the heating conductor is bent at right-angles, as indicated in Figs. 1 and 4. The outer end of the conductor is brought through a hole 13 in the prepared asbestos disk 14, which is placed directly on one face of the coil, and is carried along to a point near the center, and is there bent at a right-angle as indicated at 15, this end projecting through a hole 16 in the prepared asbestos disk 17, placed over the first mentioned layer.

In putting the parts together, I lay the prepared heating coil directly on the outer enameled surface of the bottom 2, the coil be-

ing made to stick thereon by a thin layer of silicate of sodium. The metal ring 18 having a flange 19, is then placed around the coil and against the bottom as shown in Fig. 1, and is secured in place by wires 6 passing around the sleeves 5 and around tongues formed by notches 21 in the flange. Asbestos fiber wet with silicate of sodium (20) is then packed within the ring and on the coil until the ring is full, and the ends of the heating coil only are visible. If desired to further connect the heater and surrounding parts to the plate 2 lacing wires 6" may be used, these wires passing around the sleeves 5 and across asbestos body

20. Over the lacing is placed asbestos paper 6'. The "connector" or device to which the supply wires are connected is held directly against this surface by the screw 7 and nut 40. The connector consists of two tubes 28, centrally within which are smaller conducting tubes 29, separated from each other by the outer tubes by asbestos or other proper insulation 30. The inner tubes are split and slightly spread at their upper ends, as shown at 31, Fig. 3. At the upper end of the tubes is a plate 37 having small holes or indentations 38. The upper face of this plate is covered with a layer of prepared asbestos 39, which also extends into the holes 38 and makes a firm union between the plate and the asbestos. The ends of the heating coil extend into the split ends of the central tubes and form a tight fit.

22 is a plate of prepared and hardened asbestos held in the flanged metal ring 23 which rests directly on the hollow base 24. The screws 4 and 7 pass through this plate and through the base 24 and are secured by nuts 25. Above the plate 22 is a vessel 26 somewhat larger than 1 but being nearly the same diameter at its top, and when the parts are put together said top fits into the groove 27 formed by bending over the upper edge of the vessel 1 and the tubes 28 extend through holes in the base as shown in Fig. 1. It will be clear that with this construction an air space is provided between the inner and outer vessels, and the tightening of nuts 25 securely locks these two vessels together.

The vessel 26 is provided with a lining 26' of asbestos or other poor conductor of heat. On the lower ends of the tubes is placed a cross-piece 32, of wood, fiber or other suitable material, for strengthening the tubes and for supporting the screw 33 which holds the cord 34 in which are the two wires 35, 36 which conduct current from the source of current to the heating conductor. These wires are secured, by soldering or otherwise, to the lower end of the tubes 29. The hollow rivet or screw 8, which extends through the inner and outer vessel, is provided with a valve 41, by means of which liquid in the vessel can be withdrawn. The outer part of the cock screws onto the part 8 after the vessels 1 and 26 are secured together.

As already indicated, the substance to be cooked can be placed directly in the vessel 1 since it has a smooth water tight surface, but if preferred, separate cooking vessels may be set on vessel 1, or other forms of vessels may be substituted for vessel 1, as indicated in Fig. 5, where the kettle shown extends into the outer heater vessel 26. The heater, indicated by the rectangle 18 being mounted directly on the bottom of the kettle, and the kettle being secured to the base by screws 4 as described in connection with Fig. 1. In Fig. 6 a flat bottomed coffee-pot rests directly on the top of the outer vessel, and carries the 80 heater.

I prefer in some cases to support my heaters as illustrated in Fig. 7, in which the part at the left may be made as already described in connection with Fig. 1. At one side of this part is a socket 42, in which is a sliding rod 43 forming one member of a hinge. To 43 is pivoted the second member, 44, of the hinge, this member being secured to a cover 45, which preferably incloses a second heater indicated by the dotted rectangle 46, which is the same as ring 18 of Fig. 1, it being held in place by the inner vessel 47, which corresponds to vessel 1 of Fig. 1, and which is secured to the body of the cover. The cap 46' is shown as of a different form from the base of the other section, but it may be of the same form. This cover is provided with an insulating handle 48. When in the position shown, the two heaters can be used independently, but when the cover is moved to its closed position, the substance being cooked can be placed between the two heaters, thereby being inclosed and receiving more intense heat. When the article to be cooked is too large to be held entirely within the two sections of the heater, the rod 43 can be raised, the screw 49 sliding along in a slot 49' provided for it, so as to increase the distance between the two heating coils.

In Fig. 8 two heaters are indicated by the circles 50, 51 and the wires leading therefrom are indicated by 11, 15 and 11', 15'. The wires 11, 11' are connected to the arc 52, the wire 15 to the arc 53, and 15' to the arc 54. At the center of said arcs is an insulating spindle 55, having a handle 56 and carrying two switch arms 57, 58. The positive and negative terminals of the supply circuit are connected to the two arcs 59, 60. With the switch in the position shown, the two heaters will be in series and the current passing through them will be weak. When the switch is moved so as to bring 58 onto 52, only one heater will be in circuit. When the switch is moved a little farther so that the upper contact device will bridge the space between contact plates 53, 54, the two heaters will be in multiple arc. By throwing both heaters in series on first closing the circuit, a too sudden rise of temperature is avoided. If iron wire is used, this is important, as it will enable the iron wire to

be heated up, thereby raising its resistance, before a strong current is passed through it.

What I claim is—

1. A heating wire in the form of a flat volute, and an insulating twine interposed between the successive turns of the wire, substantially as described.
2. A heating wire in the form of a flat volute, and an asbestos twine interposed between the successive turns of wire, substantially as described.
3. The combination, in an electrical heating coil, of a fiber insulated heating conductor, and a cord, the insulation and the cord, or either, being impregnated with a hardening material, the cord lying between the convolutions of the conductor, substantially as described.
4. A conductor for electrical heaters having an insulating coating of fiber soaked with silicate of sodium and covered or treated with clay and silicate of sodium, substantially as described.
5. The combination, in a heater, of the receptacle 1 the bottom of which forms the heating plate, the screws passing through the same, the enamel or coating for said receptacle and screw-heads, thereby forming a tight joint around each screw-head and a heating coil on the bottom of the heating plate, substantially as described.
6. The combination of the heating plate 2, the heating conductor therefor, the insulating layer 20, the tubes 28 and conductors carried thereby, said conductors being adapted to receive the ends of the heating coil, substantially as described.
7. The combination of the heating plate 2, the heating coil therefor, the insulating layer 20, the tubes 28 and conductors carried thereby, said conductors being adapted to receive the ends of the heating coil, and means for securing the tubes and the heating plate together, substantially as described.
8. The combination, in a heater, of a heating plate, a heating coil against the plate, a ring resting against the same side of said plate, said ring carrying insulation, and means for securing said ring and inclosed parts to the heating plate, substantially as described.
9. The combination of the heating plate, the screws extending through the same but sealed water tight, the heating coil resting against said plate, the ring and the insulating layer around and over said coil, and means for holding the same against the heating plate, substantially as described.
10. The combination, in a heating apparatus, of two sections, each containing heating coils, said sections being hinged together by means of an adjustable hinge, whereby the distance between them when the cover is in its closed position can be varied, substantially as described.
11. The combination of several heaters, each containing a heating coil, of a switch for controlling the circuit of said coils, said switch having contacts connected to the supply circuit and to the heating conductors, and a switch arm, the parts being so arranged that the two heaters will first be thrown into circuit in series, then one heater will be thrown in circuit alone, and then the heaters will be thrown in multiple arc, substantially as described.
12. The combination, of the heating vessel or plate, devices projecting therefrom, a ring having a notched flange and resting against said vessel or plate, and wires extending around said device and around the tongues formed by the notches in the flange for securing the ring in place, and an insulated heating coil within the ring, substantially as described.
13. The combination of the heating vessel or plate, the heating coil, the insulation over the coil, the connecting device to which the heating conductor connects, and the screw securing said conductor to the face of the insulation, substantially as described.

This specification signed and witnessed
7th day of December, 1891.

JOHN V. CAPEK.

Witnesses:

CHARLES M. CATLIN,
E. A. MACCLEAN.

Defendant's Exhibit No. 23.

[Endorsed]: No. D-68. Wright v. Pacific. Deft. Exhibit No. 23. Filed Dec. 7, 1920. Chas. N. Williams, Clerk. By Fred E. Subith, Deputy Clerk.

No. 3715. United States Circuit Court of Appeals for the Ninth Circuit. Filed Jul. 9, 1921. F. D. Monckton, Clerk.

UNITED STATES OF AMERICA,
DEPARTMENT OF THE INTERIOR,
UNITED STATES PATENT OFFICE.

To all to whom these presents shall come, Greeting:

THIS IS TO CERTIFY that the annexed is a true copy from the Records of this Office of the File Wrapper and Contents, in the matter of the

Letters Patent of

William D. Wright,

Number 1,214,486, Granted January 30, 1917,
for

Improvement in Electric Cooking Apparatus.

IN TESTIMONY WHEREOF, I have hereunto set my hand and caused the seal of the Patent Office to be affixed at Washington, in the District of Columbia, this 20th day of December, in the year of our Lord one thousand nine hundred and nineteen and of the Independence of the United States of America the one hundred and forty-fourth.

[Seal]

M. H. COULSTON,
Acting Commissioner of Patents.

tion, Oath and Drawing, enclosed herewith.

Yours truly,

E. E. RODABAUGH.

EER—K.

Enc 1.

76266

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Insert 486

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76266

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Mail Room. Feb. 5, 1916. U. S. Patent Office.

PETITION WITH POWER OF ATTORNEY.

To the Commissioner of Patents:

Your petitioner, William D. Wright, a citizen of the United States, and a resident of San Diego, County of San Diego, and State of California, whose Postoffice address is 352 Milbrae Street, San Diego, California, prays that Letters Patent may be granted to him for the improvements in Electric Cooking Apparatus, set forth in the annexed specification; and he hereby appoints E. E. Rodabaugh, of San Diego, California, Registration #8788, his attorney, with full power of substitution and revocation, to prosecute this application, to make alterations and amendments therein, to receive the patent, and to transact all business in the Patent Office connected therewith.

Signed at San Diego, in the County of San Diego,

and State of California, this 28th day of January, 1916.

WILLIAM D. WRIGHT.

[Twenty-five Cents Internal Revenue Stamps Attached. Canceled.]

76266

2

B 2

SPECIFICATION.

TO ALL WHOM IT MAY CONCERN:

Be it known that I, WILLIAM D. WRIGHT, a citizen of the United States, residing at San Diego, in the county of San Diego, State of California, have invented certain new and useful Improvements in Electric Cooking Apparatus, of which the following is a specification.

My invention relates to improvements in electric heating apparatus, more particularly to be used for grilling and waffle baking purposes, but which may also be used for any purpose of the ordinary electrically heated stove, and which may be folded up so as to occupy a small space when not in use, and which provides a large heating surface when unfolded.

One of the objects of my invention is to provide a device of the kind which is so constructed that certain sections thereof may be heated and thus economize in the use of electric current. a1-2 Another object is to provide a device of the kind that may be quickly converted from one use to a different use, as from a waffle-iron to a grill, or to a device providing a large heating surface when required.

These objects and others will more clearly appear from the accompanying drawings which form a part of my specification.

In the drawings similar characters refer to similar parts throughout.

In the drawings, Figure 1 is a perspective view of my device, showing the top waffle member turned back and the other waffle member above the grill member; Fig. 2 is a vertical cross sectional view through C'-D in Fig. 4; Fig. 3 is an end elevational view with a part of the casing removed to better illustrate the electric wiring, Fig. 4 is a vertical sectional view through A-B in Fig. 2, Fig. 5 is a detail view of one of the swinging arms, and Fig. 6 is a longitudinal sectional view of the other swinging arm.

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B 3

The principal parts of my invention are the base or grill member a, the lower waffle member b, and the upper waffle member c.

The member *a* is supported at each end on a support a1, which is provided with feet z5. The member *a* is in shape an oblong rectange provided with cross-pieces a2 disposed at regular intervals throughout its length, which form an integral part of the side pieces d2 and d3, leaving between said cross pieces open spaces a3. The cross pieces a2 and the side pieces d2 and d3 are all provided in their lower surfaces with deep longitudinal recesses a4, in each of which is placed a heating element a5

and electrically connected to one another. The elements a5 are electrically connected by means of wires a6 and z which enter at point a7, and the electric current into said member a is controlled by the switch a8.

The waffle member b is preferably made of aluminum and may be of any shape desired, but my preferred construction is an oblong rectangular shape. The member b is composed of an outer hollow casing n which is preferably made of pressed steel and is provided with a recess or chamber sufficiently deep to contain the non-conductor n1, the heating element n2, the non-conducting element n3 and the base portion of the metallic cooking surface member n4, all in the order in which I have enumerated same.

The metallic cooking surface member n4 is provided on its circumference with a projecting shoulder n5 which rests upon and covers the edge of the casing n. The member b is enough shorter than the member a so that the arms m and m1 on each end of the members a and b are of a length equal to the distance from a12 to a13, and they are inclined toward the member b sufficiently to allow the member b to be inverted so that the cooking surface of member b may be brought directly above and face the member a, leaving a sufficient space between the members a and b to contain a slice of meat or other article for the purpose of grilling it.

The member c is identical with member b in

structure, composition and arrangement of its parts, hence I shall not describe the member c in detail. Both of the members b and c are provided on their cooking surfaces with projections d6 found in the ordinary waffle-iron which are of a length so that they will have a space between their adjacent ends when the waffle surface of member c is placed on the surface of member b and the edges of member c and b are resting against each other, as shown best in Figs. 2 and 4.

The casing c1 of the member c corresponds in size, shape, and form with the casing n. The casing n and its contents are securely fastened together so that the member b may be inverted without allowing any of its parts to become displaced, and the casing c1 and its contents are similarly fastened together for the same purpose.

On each end of the member a the support a1 is provided with an upwardly extending portion a10, and near the middle of said support a1 there is provided a similar upwardly extending portion a-11 of the same height and size as a10.

Rigidly mounted on the casing n at b2 is a support member b3 having a projected portion b4. Pivotally mounted on the support member b3 at b5, at its one end, and at its other end, similarly mounted at a12 on the member a-11, is an arm member m. Pivotally mounted at its one end near the middle of the end portion of the casing n at b6, and at its other end pivotally mounted in the portion a10 at a13, is another swinging arm m1.

Arms similar to arms m and m1 and of the same shape and length are similarly mounted on the support a1 and casing n at the opposite end of the casing n. The arm m at m3 is bent so as to throw the upper end m4 thereof toward the support b3, thereby forming a shoulder m5 on which the arm m1 at point m6 may rest when member b is inverted, and its waffle surface is placed adjacent to the cooking surface of member a. The arm m1 is provided with a straight portion m7 which is pivoted on the support a10 at a13, a middle portion m8 which rises at an oblique angle to m7 and inclines toward the member b and the other end portion m9 which is

76266
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parallel to the end of casing n and is pivoted to it at b6.

It will be noticed that if the member b, in the position shown in Fig. 1, be moved toward the left, the member b will be held in a level position by the arms m and m1, and when the end of arm m at b5 drops to the horizontal plane of a12 and a13 the extended edge of b may be caused to rise, so that the member b will revolve on the pivots b6 until the arm m1 rests on the shoulder m5 of arm m, when the waffle surface of member b will be adjacent to and directly over the cooking surface of member a, and furnish a cooking surface to act on anything being cooked on member a. These arms m and m1 are adapted to hold the member b at all

times in a level position relatively to the upper surface of the member a, and to allow the member b to be swung to one side of the member a when so desired or to be reversed and placed over member a.

A support b7 is pivotally mounted at p on the side of the casing n which is adapted to drop into the position shown by the dotted lines in Fig. 1 to support the member b when it is not resting on the member a.

The heating element in the member b is electrically connected to the wires b8, b10 and z, which are controlled by the switch b9.

Firmly mounted on the support members a1 at each end at z6 is another support member z7.

The member c is mounted, by means of hinges r and s, which are each mounted at one end on the casing c1 at z8 and z9, and on the support z7 at z10. These hinges r and s are similar in size and shape, and are of a size to allow the cooking surface of the member c, when said member is turned back on said hinges, to be level with the top of member a.

The member c is also provided on its side opposite to the hinged side with a member y having a straight projecting portion d adapted to facilitate the revolving of the member c on the hinges r and s.

The member y is also provided with a curved portion d5 which is adapted to act as a support for the member c when it is turned on the hinges r and s to its reversed position.

The heating element in the member c is electrically connected to wires z and t which are controlled by the switch t1. The wires connecting with the heating elements in all the parts are electrically connected to the main wires k.

A hollow casing o is mounted on the support a1 at the end of the member a where the electric conducting wires enter said member a. This casing o is adapted for concealing and protecting the said electric conducting wires. Mounted in said casing o are electric switch buttons o1, o2, and o3 respectively adapted to operate the switches b9, a8 and t1.

In operation for baking waffles the members b and c are placed with member b resting on the member a, and the member c, in the positions shown in Fig. 1. The waffle batter is poured on the cooking surface of the member b after which the member c is revolved on the hinges r and s until its cooking surface is directly above the cooking surface of the member b and the edges of the cooking member n4 rests upon the edge of the similar cooking member of the member b. The electric current, by means of the switch buttons o1 and o3 is turned into the heating elements b and c and the current through the member a may be switched off by means of the switch button o2.

By reason of both waffle cooking surfaces being made of aluminum no lubrication is required on the said cooking surfaces and the waffles are cooked evenly on both sides at the same time.

If my device is desired to be used for a grill, only, the member c may be revolved on the hinges

r and s until the support d5 rests on the table or support on which the supports a1 are resting, and the member b, by means of the arms m and m1, may be swung to the other side of the member a until the support b7 rests on the table or other support on which the members a1 are supported. The elec-
76266

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tric current may be cut out of the members b and c by the use of the switch buttons o1 and o3, and then the member a may be used as a grill or for any other purpose by switching on the current in said member by the use of the switch button o2, or if it is desired to cook both sides of the article on member a at the same time, the member b may be revolved on pivots b5 and b6 until the arm m1 rests on the shoulder m5 of arm m and the cooking surface of member b', will be directly over member a, resting against, or very close to the article being cooked, and the electric current is then turned into the member b as well as member a.

In case it is desired to use my device for the general heating of cooking utensils or other articles where a large heating surface is required, the electric current may be turned into all three of the members a, b and c and the heating surface of all three of said members may be utilized.

Although I have described my improvements with considerable detail and with respect to certain particular forms of my invention, I do not desire to be limited to such details since many changes

and modifications may well be made without departing from the spirit and scope of my invention in its broadest aspect.

Having fully described my improvements, what I claim as new and desire to secure by Letters Patent, is:

1. In a device of the kind described, a grill member mounted at each end on a support, (a horizontal support parallel to said grill member mounted at each end on one of said supports), a plurality of swinging arms each mounted at one end on extended portions of said first named supports, a waffle member pivotally mounted on the other ends of said swinging arms, a plurality of hinges each mounted at one end on said parallel support, another waffle member mounted on the other ends of said hinges, electric heating elements mounted in each of said grill member and said waffle members, and electric conducting wires connected to each

76266

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of said heating elements and an electric current supply.

2. In combination with an electric grill member, another electrically heated member revolvably mounted on the ends of a plurality of swinging arms, said arms being adapted to form a support and hold the cooking surface of said revolving member in its reversed position at a certain distance from the cooking surface of said grill member, and electric means for heating said members.

3. In a device of the kind described, a grill member mounted at each end on a support member provided with a plurality of cross pieces spaced apart and forming an integral part of two parallel portions thereof, each of said cross-pieces and parallel portions provided in their lower surfaces with longitudinal grooves in each of which are mounted electric heating elements, which said elements are electrically connected to one another and to a current supply source, another member provided with an electric heating element and a waffle-baking surface revolubly mounted on the ends of a plurality of swinging arms having their other ends pivotally mounted in said supports, said member being adapted to be placed directly above and adjacent to said grill member in its inverted or other position, or to be swung to one side of said grill member.

4. In a device of the kind described, the combination of two electrically heated members each provided with an aluminum waffle-baking surface, one of said members being revolubly mounted on swinging arm members and the other hinged to a support member and being adapted to be moved on said swinging arms and said hinges into a position where the waffle baking surfaces may be placed together so that the edges of said cooking surfaces will rest firmly against each other.

5. A folding electric cooking apparatus comprising a grill member mounted at each end on a support, another electric heated member revolubly mounted on swinging arms which are pivotally

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B 9

mounted on said supports, another electric heated member hinged to a horizontal support mounted at each end on said first named supports, all of said members being adapted to be superposed one above the other in a compact form.

In Testimony Whereof, I have hereunto subscribed my name in the presence of two subscribing witnesses.

WILLIAM D. WRIGHT.

Witnesses:

QUINCE C. CRANE,
MINNIE KORTE.

76266

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OATH.

William D. Wright, the above named petitioner, being sworn, deposes and says that he is a citizen of the United States and a resident of San Diego, in the County of San Diego, and State of California; that he verily believes himself to be the original, first and sole inventor of the improvements in Electric Cooking Apparatus described and claimed in the annexed specification; that he does not know and does not believe that the same was ever known or used before his invention or discovery thereof, or patented or described in any printed publication in any country before his invention or discovery thereof, or more than two years prior to this application, or in public use or on sale in the

United States for more than two years prior to this application; that said invention has not been patented in any country foreign to the United States on an application filed by him or his legal representatives or assigns more than twelve months prior to this application; that no application for patent on said improvement has been filed by him or his representatives or assigns in any country foreign to the United States.

WILLIAM D. WRIGHT.

Sworn to and subscribed before me, this 28th day of January, 1916.

F. F. GRANT,

Notary Public in and for said County of San Diego,
State of California.

76266

11

2-260

H. D. B. Re.

Div. 15. Room 308.

Address only

"The Commissioner of Patents,
Washington, D. C.,"
and not any official by name.

Paper No. 2.

All communications respecting this
application should give the serial
number, date of filing, title of
invention, and name of the
applicant.

183

DEPARTMENT OF THE INTERIOR
UNITED STATES PATENT OFFICE
WASHINGTON

E. E. Rodabaugh,

Apr. 7, 1916.

503 Central Mortgage Building,
San Diego, Cal.

Please find below a communication from the EXAMINER in charge of the application of W. D. Wright, Serial No. 76,266, filed Feb. 5, 1916, for Electric Cooking Apparatus.

THOMAS EWING,
Commissioner of Patents.

Claim 1 is rejected as being indefinite. The horizontal support referred to in the second line is not seen. If the casing *n* is meant for the horizontal support, then the reference to the waffle member being pivotally mounted on the other ends of the swinging arms in lines 5 and 6 is inaccurate. In line 9, *each of*, after "in," should be canceled and inserted after "and."

Claims 2 to 5, inclusive, are objectionable as at present drawn. The applicant should positively include the elements instead of indirectly referring to them. In claim 2, line 3, for example, the swinging arms should be positively included. In claim 3, line 2, "a support member" is indirectly referred to.

The claims are considered to contain patentable subject-matter and properly amended will probably be allowed.

Attention is directed to the following patents showing various views of the art:

Ljung, 1,010,059, Nov. 28, 1911, (107-66),

Perky, 797,604, Aug. 22, 1905, (107-58).

A. W. R.

A. W. REDROW.

76266

B 11'

Mail Room. May 2, 1916. U. S. Patent Office.
U. S. Patent Office. Filed May 3, 1916. Division XV.

Paper No. 3

A

In the United States Patent Office.

Div. 15, Rm. 308,
W. D. Wright,
Electric Cooking Apparatus,
Filed Feb. 5, 1916,
Serial No. 76,266.
Hon. Commissioner of Patents,

Sir: In response to the last office action of April 7, 1916, the above named application is amended as follows:

Page 1, of the specification, insert the following between the word "current" in line 16 and "another," line 17: Another object of my invention is to provide a new and novel construction of waffle iron.

The attention of the Office is called to the horizontal support mentioned in line 2 of claim 1 as being shown in Figs. 1 and 2 of the drawings and indicated by the character 27.

Cancel the claims and substitute:

1. In a device of the kind described, a grill member mounted at each end on a support, a horizontal support parallel to said grill member mounted at each end of one of said supports, a plurality of swing-

ing arms each mounted at one end on extended portions of said first named supports, a waffle member pivotally mounted on the other ends of said swinging arms, a plurality of hinges each mounted at per B.

horizontal
one end on said ~~parallel~~ support, another waffle member mounted on the other ends of said hinges, electric heating elements mounted in said grill member and each of said waffle members, and electric conducting wires connected to each of said heating elements and an electric current supply.

2. In combination with an electric grill member, a plurality of swinging arms each pivotally mounted at one end on supports attached to said grill member, another electrically heated member revolubly mounted on the other ends of said swinging arms, said arms being adapted to form a sup-
76266

13

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port for said revolving member and hold the cooking surface thereof in its reversed position at a certain distance from the cooking surface of said grill member, and electric means for heating said grill member and said revoluble member, electrically connected to an electric supply circuit
per B.

connected to an electric supply ~~current~~.

3. In a device of the kind described, a pair of support members, a grill member mounted at each end on one of said support members, and provided with a plurality of longitudinal parallel portions and a plurality of parallel cross-pieces forming an

integral part of said longitudinal parallel portions, each of said longitudinal portions and cross pieces provided in its lower surface with a longitudinal groove, an electric heating element mounted in each of said grooves and electrically connected to one another and to an electric current supply source, a plurality of swinging arms each revolubly mounted at one end on said supports, another member provided with a waffle-baking surface revolubly mounted on the ends of said swinging arms, an electric heating element mounted in said last-named member, said member being adapted to be placed in its inverted position directly above and adjacent to said grill member, or to be swung to one side of said grill member.

Sub. B1

4. In a device of the kind described, the combination of two electrically heated members, an aluminum waffle-baking surface member mounted on the top edge of the casing of each of said members, a plurality of swinging arms each revolubly mounted at one end on one of said electrically heated members, and at its other end revolubly mounted on the support members of said device, a plurality of hinge members each mounted at its one end on the casing of the other of said electrically heated member, and the other end mounted on a horizontal support member mounted on said first named support members, said electrically heated members being adapted to be moved on said swinging arms and said hinges into a position where the waffle-baking surfaces may be placed together so

that the edges of the faces thereof will rest firmly against each other.

76266

14

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5. A folding electric cooking apparatus comprising two support members, a grill member firmly mounted at each end on one of said support members, a plurality of swinging arms having one end of each arm pivotally mounted on said support members, a horizontal support member mounted at its ends on said first mentioned support members, another cooking member revolubly mounted on the other ends of said swinging arms, and a third cooking member mounted on a plurality of hinges each attached at its one end to the wall of said member and at its other end to said horizontal support member, all of said cooking members being adapted to be super-posed one above the other in a compact form.

Sub. B²

~~6. In a device of the class described, a waffle element, another waffle element to be used in connection therewith, and means for electrically heating both of said waffle elements.~~

~~7. In a device of the class described, a pair of waffle members pivotally connected together and means for electrically heating each member of said pair.~~

~~8. In a device of the class described a pair of waffle members pivotally connected together at one~~

side, means for electrically heating each member of said pair, and means for separately closing or opening the current to each of said electrical heating means.

9. In a device of the class described, a pair of waffle members pivotally connected together at one side, each consisting of an outer casing, a non-conducting element therein, an electric heating element adjacent thereto, and a metallic baking element adjacent said heating element.

10. In a device of the class described, a pair of waffle members pivotally connected together at one side, each consisting of an outer casing, a non-conducting element therein, an electric heating element adjacent thereto and a metallic baking element adjacent said heating element provided with a plurality of symmetrically aligned projections there-

76266

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on.

11. 6. In a device of the class described, a pair of waffle members pivotally connected together at one side, each consisting of a hollow outer casing, an electrical heating element mounted in said casing, a non-conducting element spacing said heating element from said casing, and a metallic waffle baking element adjacent said heating element.

Respectfully submitted,

WILLIAM D. WRIGHT,

By E. E. RODABAUGH,

His Attorney in Fact.

76266

16

2-260

Div. 3. Room 175.

Paper No. 4.

Address only

All communications respecting this

"The Commissioner of Patents,

application should give the serial

Washington, D. C.,"

number, date of filing, title of

and not any official by name.

invention, and name of the

MB/RAJ.

applicant.

DEPARTMENT OF THE INTERIOR

UNITED STATES PATENT OFFICE

WASHINGTON

24.

May 31, 1916.

U. S. Patent Office. May 31, 1916. Mailed.

E. E. Rodabaugh,

503 Central Mortgage Bldg.,

San Diego, Calif.

Please find below a communication from the EX-AMINER in charge of the application of W. D. Wright, Electric Cooking Apparatus, 76,266, filed Feb. 5, 1916.

THOMAS EWING,

Commissioner of Patents.

Replying to amendment filed May 2, 1916.

It is suggested that in line 7, claim 1, "parallel" be changed to horizontal.

It is thought that the word "current" in the last line of claim 2 should be circuit.

Several errors occurring in claim 4 should be corrected.

The following references not now of record are cited:

Jaeger, 333,229, Dec. 29, 1885, 107 - 66

Aaron, 1143,603, Jun. 22, 1915, 126 - 41,

Claims 6 to 11, inclusive, are rejected on the references now of record. The application to a waffle iron of an electric heater is not considered patentable broadly, though the specific subject-matter of claims 1 to 5 appears to be patentable and these claims are deemed allowable except as indicated above.

B.

76266

17

WM. J. RICH,
Examiner, Div. 3.

Serial No. 76266.

Paper No. 5, Amendment B.

B 15.

Mail Room. Jul. 8, 1916. U. S. Patent Office.

U. S. Patent Office. Jul. 10, 1916. V. 3.

IN THE UNITED STATES PATENT OFFICE.

Div. 3, Room 175,

W. D. Wright,

Electric Cooking Apparatus,

Filed Feb. 5, 1916,

Serial No. 76,266

Hon. Commissioner of Patents,

Sir: In response to the last office action of May 31, 1916, the above-named application is amended as follows:

Line 1, claim 7, change "parallel" to "horizontal."

Claim 2, last line, change "current" to "circuit."

Cancel claim 4 and substitute:

4. In a device of the kind described, the combination of two electrically heated members each provided with an aluminum waffle baking surface, swinging arm members upon which one of said electrically heated members is revolubly mounted, and a support upon which the other electrically heated member is hinged, whereby said electrically heated members are adapted to be moved on said swinging arms and said hinges into a position where the waffle baking surfaces may be placed together so that the edges of said baking surfaces will rest firmly against each other.

Cl 5

Cancel claims 6 to 11 inclusive and substitute:

6. In a device of the class described, a pair of casings pivotally connected together, a waffle member provided with an aluminum baking surface mounted in each of said casings so that ~~the~~ each of said aluminum baking surfaces covers the upper edge of one of said casings, and means mounted in

said casings between said casings and said waffle members for electrically heating said waffle members.

7. In a device of the class described, a pair of casings pivotally connected together, a waffle member provided with aluminum baking surfaces mounted in each of said casings so that their sur-
76266

18

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faces extend past the edges of said casings, means mounted in said casings between said casings and said waffle members for electrically heating said waffle members, consisting of an electrical heating element adjacent said waffle member and a non-conducting element spacing said electrical heating element from said casing.

8. In a device of the class described, a pair of box-shaped casings pivotally connected together so as to fold one upon the other, a waffle member mounted in each of said casings provided with outwardly extending flanges extending past the edges of said casing, whereby said waffle members are supported on the edge of said casing and spaced apart from the bottom thereof, and electrical means mounted in the space between said waffle member and said casing for heating said waffle member.

9. In a device of the class described, a pair of box-shaped casings pivotally connected together so as to fold one upon the other, a waffle member mounted in each of said casings provided with out-

wardly extending flanges extending past the edges of said casing, whereby said waffle members are supported on the edge of said casing and spaced apart from the bottom thereof, electrical means mounted in the space between said waffle member and said casing for heating said waffle member, consisting of an electrical heating element adjacent said waffle member and a non-conducting element spacing said electrical heating element from said casing.

(Sigs.)

REMARKS.

It is thought that the claims as now amended avoid the references of record. Perkey of record is a machine for preparing foods from grain, such as crackers and the like, and obviously is not for baking waffles, therefore it is in a non-analogous art. In the cases of *Ansonia vs. Electrical Supply Company*, 144 U. S., Page 11, and *Bonsack vs. Elliott*, 69 Fed. 335, the Courts censored citations in non-analogous arts. Furthermore, we do not find in 76266

19

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Perkey the structure as set forth in these claims nor would the Perkey structure suggest applicant's structure as set forth in these claims. In neither *Aaron*, *Ljung* nor *Jager* do we find an electrically heated baking device though applicant's claims are not drawn broadly but are specific to the structure. It is submitted that none of the claims as now writ-

ten read on any or all of the references of record nor would any or all of the references of record suggest applicant's structure as set forth in said claims.

A favorable consideration of the claims is therefore respectfully requested.

Respectfully submitted,

W. D. WRIGHT,

By E. E. RODABAUGH,

His Attorney in Fact.

76266

20

Paper No. 6
Amendment C

2—254

DEPARTMENT OF THE INTERIOR
UNITED STATES PATENT OFFICE
WASHINGTON, D. C.

July 26, 1916.

In compliance with the provisions of order No. 1718, dated June 8, 1907, and which reads as follows:

It is hereby ordered that, except by formal amendment duly signed or as hereinafter provided, no corrections, erasures, or interlineations be made in the body or written portions of the specification or of any other paper filed in an application for patent.

Obvious informalities in the wording of the specification may be corrected by the examiner, but said correction must be in the form of an amendment,

approved by the Principal Examiner in writing, placed in the file, and made a part of the record. The changes specified in the amendment will be entered by the clerk in the regular way.

It is directed that no other changes be made by any person in any record of this office without the written approval of the Commissioner of Patents.

Attorneys, employees of the Patent Office, and all others will be held to strict accountability for any violation of this order.

The following changes are made in—

Application Serial No. 76,266 of W. D. Wright.

At the end of line 3, claim 6, cancel "the."

WM. J. RICH,
Examiner, Division 3.

76266

21

Address Only

The Commissioner of Patents,
Washington, D. C.

AH

2—181

Serial No. 76266

DEPARTMENT OF THE INTERIOR
UNITED STATES PATENT OFFICE
WASHINGTON.

July 29, 1916.

William D. Wright,

Sir: Your APPLICATION for a patent for an
IMPROVEMENT in Electric Cooking Apparatus,

filed Feb. 5, 1916, has been examined and ALLOWED.

The final fee, TWENTY DOLLARS, must be paid not later than SIX MONTHS from the date of this present notice of allowance. If the final fee be not paid within that period, the patent on this application will be withheld, unless renewed with an additional fee of \$15, under the provisions of Section 4897, Revised Statutes.

The office delivers patents upon the day of their date, and on which their term begins to run. The printing, photolithographing, and engrossing of the several patent parts, preparatory to final signing and sealing, will require about four weeks, and such work will not be undertaken until after payment of the necessary fee.

When you send the final fee you will also send, DISTINCTLY AND PLAINLY WRITTEN, the name of the INVENTOR, TITLE OF INVENTION, AND SERIAL NUMBER AS ABOVE GIVEN, DATE OF ALLOWANCE (which is the date of this circular), DATE OF FILING, and, if assigned, the NAMES OF THE ASSIGNEES.

If you desire to have the patent issue to ASSIGNEES, an assignment containing a REQUEST to that effect, together with the FEE for recording the same, must be filed in this office on or before the date of payment of final fee.

After issue of the payment uncertified copies of the drawings and specifications may be purchased at the price of FIVE CENTS EACH. The money should accompany the order. Postage stamps will

UNCERTIFIED CHECKS WILL NOT BE ACCEPTED.

not be received.

Final fees will not be received from other than the applicant, his assignee or attorney, or a party in interest as shown by the records of the Patent Office.

Respectfully,

THOMAS EWING,
Commissioner of Patents.

E. E. Rodabaugh,
503 Central Mortgage Bldg.,
San Diego, California.

76266

22

Paper No. 7
Amendment D

2—254

DEPARTMENT OF THE INTERIOR
UNITED STATES PATENT OFFICE
WASHINGTON, D. C.

Jan. 19, 1917.

In compliance with the provisions of order No. 1718, dated June 8, 1907, and which reads as follows:

It is hereby ordered that, except by formal amendment duly signed or as hereinafter provided, no corrections, erasures, or interlineations be made in the body or written portions of the specification or of any other paper filed in an application for patent.

Obvious informalities in the wording of the speci-

fication may be corrected by the examiner, but said correction must be in the form of an amendment, approved by the Principal Examiner in writing, placed in the file, and made a part of the record. The changes specified in the amendment will be entered by the clerk in the regular way.

It is directed that no other changes be made by any person in any record of this office without the written approval of the Commissioner of Patents.

Attorneys, employees of the Patent Office, and all others will be held to strict accountability for any violation of this order.

The following changes are made in—

Application Serial No. 76,266 of Wm. D. Wright:
Page 5, line 19, change “edges” to edge.

	WM. J. RICH,
76266	Examiner, Division 3.
23	

\$20 Rec. Jan. 2, 1917. Ck. C. C. U. S. Pat. Offic. J.
Office Phones: Main 358

Home 3005

Residence Phones: Home 9302

Main 4256

HENDEE & RODABAUGH,
Attorneys and Counsellors at Law,
Suite 503-506, Central Mortgage Bldg.,
Cor. Broadway and First Sts.,
San Diego, Cal.

December 27, 1916.

E. E. Rodabaugh

E. E. Hendee

In the United States Patent Office.

Div. 15, Room 308.

Electric Cooking Apparatus.

Filed Feb. 5, 1916.

Serial No. 76,266.

Hon. Commissioner of Patents,

Sir: Enclosed please find Money order for Twenty Dollars in payment of the final fee in the above-entitled application.

The allowance herein bears date of July 29, 1916.

The patent is to issue in the name of CRANE & WRIGHT ELECTRIC COMPANY, the assignee named in the assignment enclosed herewith for record.

Kindly send patent to us,

Yours truly,

WILLIAM D. WRIGHT,

By His Attorney,

E. E. RODABAUGH,

76266

24

8/28/16

2—421

1916

~~1915~~

CONTENTS:

1. Application — papers. OK.	26.
2. Letter, Apr. 7, 1916.	27.
3. Amendt. A. May 2, 1916.	28.
4. Rejection. May 31, 1916.	29.
5. Amendment B. July 8, 1916.	30.
6. Amendment C. July 26, 1916.	31.
7. Amendment D. Jan. 19, 1917.	32.
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